

1 [The military commission was called to order at 0834, 25 July 2008.
2 All parties who were present when the commission recessed were once
3 again present.]

4 MJ [CAPT ALLRED]: Court is called to order.

5 Okay. Cross-examination. Please continue.

6 **CROSS-EXAMINATION**

7 **Questions by the defense counsel:**

8 Q [MR. McMILLAN]: Good morning, Special Agent [REDACTED]. My name
9 is Joe McMillan; I'm counsel for Salim Hamdan. I believe I
10 introduced myself to you yesterday.

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. McMILLAN]: You testified at the close of the day
13 yesterday that you interviewed Mr. Hamdan on several occasions in
14 August of 2006. Is that right?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. McMILLAN]: You were not alone in those interrogations,
17 right?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. McMILLAN]: There was a linguist?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. McMILLAN]: And there was also a New York City Police
22 Department detective. Is that correct?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. McMILLAN]: And what was his name?

2 A [MR. [REDACTED]]: [REDACTED].

3 Q [MR. McMILLAN]: Okay. And neither of you speak Arabic,
4 right?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. McMILLAN]: Did you create the FBI Form 302 Summary of
7 Interrogation for these interviews?

8 A [MR. [REDACTED]]: I believe Mr. [REDACTED] actually wrote these
9 302s, which I reviewed en masse with others, and agreed with its
10 contents, albeit with some typos and whatnot.

11 Q [MR. McMILLAN]: I'd like to put on the ELMO, not to introduce
12 into evidence but just to refresh your recollection, some of these
13 302s that Special Agent--or, rather, New York Police Detective [REDACTED]
14 [REDACTED] created. And you testified that there were three separate
15 interrogations of Mr. Hamdan. One on August 19. Correct?

16 A [MR. [REDACTED]]: Yes.

17 Q [MR. McMILLAN]: A second on August 24th. Correct?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. McMILLAN]: And then the third attempt to interrogate Mr.
20 Hamdan on the 26th?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. McMILLAN]: And the 302 summaries aren't necessarily
2 created immediately following the interrogations. Isn't that fair to
3 say?

4 A [MR. ██████████]: In this environment. Yes.

5 Q [MR. McMILLAN]: There can be several days elapse between the
6 time of the interrogation and the time that the summary is created on
7 the 302s?

8 A [MR. ██████████]: Yes. That's why we typically have notes and,
9 from our notes, write the reports.

10 Q [MR. McMILLAN]: Okay. So did you take notes, personally,
11 during the two days that Mr. Hamdan was willing to speak with you?

12 A [MR. ██████████]: Yes.

13 Q [MR. McMILLAN]: And then you provided them to Detective
14 ██████████?

15 A [MR. ██████████]: Yeah. What we would typically do, either one
16 of us would either write the report or take the notes. And then in
17 this scenario I wrote--I took the notes, Mr. ██████████ completed the
18 302. We both reviewed it, agreed it was a fair representation of the
19 interview, and memorialized it in a 302.

20 Q [MR. McMILLAN]: Okay.

21 CDC [MR. McMILLAN]: Could I ask that the document under the
22 ELMO be published to the members and to the gallery? This is not a
23 classified document. It's just being used for demonstrative

1 purposes.

2 CTC [MR. MURPHY]: Your Honor, he's provided testimony. I'm not
3 certain of the relevancy of this document.

4 MJ [CAPT ALLRED]: I'm not, either. Are you just refreshing the
5 recollection?

6 CDC [MR. McMILLAN]: I do have a few points I wanted to
7 demonstrate to the Commission, including demonstrating the gap in
8 time between the date of the interrogation and the date of the
9 transcription of the document.

10 MJ [CAPT ALLRED]: Fair enough. Go ahead. You can show it to
11 the witness.

12 CDC [MR. McMILLAN]: I would like it to be published, actually,
13 to the members as well as the gallery, if that's all right.

14 MJ [CAPT ALLRED]: Well, I don't want to publish it to the
15 members unless it's introduced into evidence.

16 Q [MR. McMILLAN]: Do you have it on your screen?

17 A [MR. REDACTED]: Yes.

18 Q [MR. McMILLAN]: Do you see there, that the investigation of
19 the first interview was April--August 19th. Correct?

20 A [MR. REDACTED]: Yes.

21 Q [MR. McMILLAN]: And the date on which the 302 summary was
22 created was eight days later, August 27th.

23 A [MR. REDACTED]: Yes.

1 Q [MR. McMILLAN]: Correct?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. McMILLAN]: You reviewed this prior to your testimony
4 this week?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. McMILLAN]: And this relates, you see at the top, Mr.
7 Salim Hamdan, ISN number 149. Correct?

8 A [MR. [REDACTED]]: Yes.

9 CDC [MR. McMILLAN]: Defense would offer this into evidence as
10 an exhibit, Your Honor, the next defense exhibit in order.

11 CTC [MR. MURPHY]: Your Honor, we object. It's not a
12 refreshing of recollection, it's not impeaching him.

13 MJ [CAPT ALLRED]: Well, the defense has authenticated it and
14 offered the document into evidence. What objection do you have to
15 that?

16 CTC [MR. MURPHY]: Your Honor, he's provided this testimony.
17 It's cumulative.

18 MJ [CAPT ALLRED]: Okay.

19 CTC [MR. MURPHY]: It's not impeachment.

20 MJ [CAPT ALLRED]: Okay.

21 CTC [MR. MURPHY]: It's not offered to refresh his recollection.

22 MJ [CAPT ALLRED]: Overruled. I don't know what they're
23 offering it for, but it's authenticated.

1 CDC [MR. McMILLAN]: Thank you. I would ask that it be
2 published then to the members.

3 MJ [CAPT ALLRED]: Very well. This is Defense Exhibit Echo.
4 [Defense Exhibit E.]

5 Q [MR. McMILLAN]: Special Agent [REDACTED], you said on the first
6 day that Mr. Hamdan was cooperative. Correct?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. McMILLAN]: And he was willing to talk?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. McMILLAN]: And he provided you with information. Is
11 that right?

12 A [MR. [REDACTED]]: He would answer questions asked of him. He
13 wouldn't go beyond the question asked. But, yes, I would say he was
14 cooperative to a point.

15 Q [MR. McMILLAN]: Okay. And did he exhibit any resistance
16 techniques, that you're aware of, in the interrogation?

17 A [MR. [REDACTED]]: I don't know what you mean by resistance
18 techniques.

19 Q [MR. McMILLAN]: Are you trained as an interrogator?

20 A [MR. [REDACTED]]: As an investigator and interviewer. Yes.

21 [END OF PAGE]

22

23

1 Q [MR. McMILLAN]: Okay. So I mentioned interrogation
2 resistance techniques that perhaps you have been aware of. I'm
3 wondering if you are aware of any that you saw exhibited by Mr.
4 Hamdan on August 19th?

5 A [MR. [REDACTED]]: No. I'm not aware of any.

6 Q [MR. McMILLAN]: And he described to you how he worked for Mr.
7 bin Laden on a farm in Kandahar. Is that correct?

8 A [MR. [REDACTED]]: Yes.

9 Q [MR. McMILLAN]: And that his job was to drive. Right?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. McMILLAN]: And he went on then--well, that information,
12 do you know whether it had been previously provided by Mr. Hamdan to
13 other interrogators?

14 A [MR. [REDACTED]]: When I did this interview, I can't recall if I
15 knew that beforehand or not. We did have some information on Mr.
16 Hamdan, so I approached my interview of Mr. Hamdan as one where I
17 would start at a very broad approach and then try to narrow it down
18 to get more specific.

19 But your question, I can't recall if I knew that or not before I
20 interviewed Mr. Hamdan.

21 [END OF PAGE]

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1 Q [MR. McMILLAN]: Did you ask him those same questions again on
2 your second interrogation, on the 24th of August?

3 A [MR. ██████████]: Again, I believe so. And, again, we were just
4 trying to get a little more detail with each interview.

5 Q [MR. McMILLAN]: Is that a standard interrogation technique,
6 to ask the same questions over again to see if the answers are the
7 same?

8 A [MR. ██████████]: Yeah. For consistency. And also, you know, I
9 would say that our first interview was very broad, and it was my
10 responsibility then to take those broad statements and make them more
11 specific. So it was twofold; one for consistency, and one to
12 generate more detail.

13 Q [MR. McMILLAN]: Okay. And then in this first interview on
14 the 19th, you proceeded to show Mr. Hamdan a series of photographs
15 that you testified about yesterday. Is that correct?

16 A [MR. ██████████]: Yes.

17 Q [MR. McMILLAN]: Okay. And Mr. Hamdan, you said, provided
18 information to you on eight of the nine individuals depicted in these
19 photos. Right?

20 A [MR. ██████████]: Yeah. I can't remember the total number. But
21 if you say eight or nine, yes.

22

23

1 Q [MR. McMILLAN]: Most of them, he had some information about?

2 A [MR. [REDACTED]]: Yes. Yes. Again, and it was again very
3 general. And it's not useful to get real specific real quick. So,
4 again, I just wanted to somehow just quantify what Mr. Hamdan knew,
5 and then get more specific from there.

6 Q [MR. McMILLAN]: Okay. And most of them were bodyguards,
7 according to Mr. Hamdan, bodyguards for Usama bin Laden. Is that
8 right?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. McMILLAN]: Do you recall that Mr. Hamdan said that
11 bodyguards for Usama bin Laden generally lived in the same house with
12 Mr. bin Laden?

13 A [MR. [REDACTED]]: Again--and I recall this, that on separate
14 occasions Mr. bin Laden--or, excuse me, Mr. Hamdan stated that
15 bodyguards did and then did not reside with Mr. Usama bin Laden. So
16 there was a discrepancy there.

17 Q [MR. McMILLAN]: So first he told you that they did reside
18 with Mr. bin Laden?

19 A [MR. [REDACTED]]: Is this the August 19th interview?

20 Q [MR. McMILLAN]: This is page 2----

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. McMILLAN]: ----of the August 19th interview.

2 A [MR. ██████████]: So, yeah. On the 19th, he said that they

3 lived in the same house. And then I think on the 24th, Mr. Hamdan

4 stated that they did not stay with Usama bin Laden.

5 Q [MR. McMILLAN]: Okay. Well, let me put up----

6 CDC [MR. McMILLAN]: And this is a document I'd like to

7 authenticate and introduce into evidence. It's the 302?

8 MJ [CAPT ALLRED]: Show it first to the witness, please.

9 CDC [MR. McMILLAN]: Could we have this published?

10 MJ [CAPT ALLRED]: Has it not? Yes. Is this a different

11 document?

12 CDC [MR. McMILLAN]: This is the 302 Summary of Interrogation

13 for the 24th.

14 MJ [CAPT ALLRED]: Okay.

15 Q [MR. McMILLAN]: Do you see that on your screen, Special Agent

16 ██████████?

17 A [MR. ██████████]: Yes. It's a little bit blurry.

18 Q [MR. McMILLAN]: Okay.

19 A [MR. ██████████]: But, yes, I see it.

20 Q [MR. McMILLAN]: Do you see that now?

21 A [MR. ██████████]: Yes.

22

23

1 Q [MR. McMILLAN]: Now, I'll slide it to the bottom to show you
2 the date on which the investigation that's summarized here occurred.
3 Do you see that, 8/24/02?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. McMILLAN]: And, again, it's not dictated until three
6 days later, 8/27/02. Correct?

7 A [MR. [REDACTED]]: Yes. The FBI has, I wouldn't say a hard and
8 fast policy, but a suggestion that 302s are completed within five
9 days, five business days.

10 Q [MR. McMILLAN]: Do you see the highlighted section?

11 CDC [MR. McMILLAN]: Well, Defense would like to offer this into
12 evidence to refresh the recollection of the witness concerning his
13 last statement.

14 MJ [CAPT ALLRED]: Okay. If it's being used to refresh his
15 recollection, it's not--it can't be admitted as a defense exhibit.
16 It can be admitted as an appellate exhibit if it's shown to the
17 witness to refresh his recollection.

18 CDC [MR. McMILLAN]: Thank you, Your Honor.

19 MJ [CAPT ALLRED]: Is that what you intended to use the last
20 exhibit for?

21 CDC [MR. McMILLAN]: No, Your Honor. I do intend them to be
22 introduced into evidence to report a number--as evidence of a number
23 of different things, including, for example, the date on which

1 interrogations occurred versus the date on which transcriptions
2 occurred. There's a number of additional points that are recorded
3 here that are I think material to the defense. So we would like
4 these to be introduced as defense exhibits.

5 CTC [MR. MURPHY]: Your Honor, we would object if the offer is
6 refreshing recollection.

7 MJ [CAPT ALLRED]: It's not. They've gotten over that. What's
8 the objection to offering it?

9 CTC [MR. MURPHY]: It's cumulative. The agent can testify. If
10 they are going to impeach him or try to impeach him, they can show it
11 to him. But simply to take his testimony and then show him his 302
12 is cumulative.

13 MJ [CAPT ALLRED]: Okay. I'll overrule the objection as to
14 cumulative. That's not a very strong objection. Is there something
15 else you want to be heard on?

16 CTC [MR. MURPHY]: If he's going to show it on the ELMO, there's
17 a protective order with regards to one little thing I'd like to deal
18 with.

19 MJ [CAPT ALLRED]: Okay.

20 CTC [MR. MURPHY]: Are you planning to show it on the ELMO?

21 CDC [MR. McMILLAN]: I was. Yes.

22 CTC [MR. MURPHY]: 40 seconds.

23 **[Brief recess in place.]**

1 CTC [MR. MURPHY]: Thank you, sir.

2 CDC [MR. McMILLAN]: Your Honor, the prosecution has informed me
3 that a name of a witness needs to be redacted. And that has occurred
4 now.

5 MJ [CAPT ALLRED]: You have your portable redactor right there
6 in your hand.

7 CTC [MR. MURPHY]: This one, sir.

8 MJ [CAPT ALLRED]: Okay.

9 CDC [MR. McMILLAN]: I will do likewise on the 302 for August
10 24th.

11 MJ [CAPT ALLRED]: Okay.

12 CDC [MR. McMILLAN]: I would like that then to be marked as the
13 next defense exhibit in order. And could I have it published to the
14 commission members and the gallery?

15 MJ [CAPT ALLRED]: Did I hear all the government's objections?

16 CTC [MR. MURPHY]: You have, Your Honor.

17 MJ [CAPT ALLRED]: Okay. Defense Exhibit Foxtrot then may be
18 admitted into evidence and shown to the members and to the gallery,
19 as redacted.

20 **[Defense Exhibit F.]**

21 **[END OF PAGE]**

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23

1 Q [MR. McMILLAN]: Special Agent [REDACTED], you testified that Mr.
2 Hamdan said at first that bodyguards stayed in the same house with
3 bin Laden. But then, your recollection is that he changed that and
4 said some of them didn't stay with Mr. bin Laden. Is that right?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. McMILLAN]: Is it possible that Mr. Hamdan also said to
7 you that drivers did not stay in the same house with Mr. bin Laden
8 but lived, rather, in houses nearby?

9 A [MR. [REDACTED]]: Yes. According to the highlighted, it says
10 the drivers did not stay in the same house.

11 Q [MR. McMILLAN]: But you don't have an independent
12 recollection of that?

13 A [MR. [REDACTED]]: I'm sorry. Can you repeat the question?

14 Q [MR. McMILLAN]: Do you have an independent recollection of
15 that, based on the interrogation of the 19th and 24th?

16 A [MR. [REDACTED]]: You know, I don't. It's been a while. So
17 based on what I've written, it said the drivers stayed in a separate
18 house.

19 Q [MR. McMILLAN]: But you do have an independent recollection
20 of the facts with respect to the bodyguards. Is that correct?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. McMILLAN]: Because it's not recorded in this document,
2 that the bodyguards would sometimes stay with Mr. bin Laden.

3 A [MR. [REDACTED]]: Okay.

4 Q [MR. McMILLAN]: Or would sometimes stay apart from Mr. bin
5 Laden.

6 A [MR. [REDACTED]]: Okay. I'd have to look back at the notes to
7 see if those said bodyguard or driver. I believe them to be one and
8 the same.

9 Q [MR. McMILLAN]: Okay.

10 CDC [MR. McMILLAN]: I'd like to just place another document on
11 the ELMO to have it published to the witness.

12 MJ [CAPT ALLRED]: You may.

13 Q [MR. McMILLAN]: Special Agent [REDACTED], do you see this cover
14 sheet with the name Detective [REDACTED], NYPD, and the date
15 August 19th, 2002?

16 A [MR. [REDACTED]]: Yes.

17 Q [MR. McMILLAN]: And do you see below that this relates to ISN
18 number 149, the accused, Salim Hamdan?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. McMILLAN]: And these are what appear to be handwritten
21 notes. Is that your handwriting?

22 A [MR. [REDACTED]]: No, that is not.

23

1 Q [MR. McMILLAN]: Is the page depicted here your handwriting?

2 A [MR. ██████████]: Yes.

3 Q [MR. McMILLAN]: Okay. So this would be consistent with the
4 idea that you provided your notes to NYPD Detective ██████████, from
5 which he prepared the 302?

6 A [MR. ██████████]: Yes. We would collect the notes. That first
7 sheet you showed me is the cover of a 1A envelope, which is where we
8 store our notes along with our 302s.

9 Q [MR. McMILLAN]: Do you recall Mr. Hamdan telling you on the
10 19th that Usama bin Laden had seven different drivers?

11 A [MR. ██████████]: Those aren't my notes. And at this point, I
12 don't recall that.

13 Q [MR. McMILLAN]: Mr. Hamdan, after identifying or providing
14 information about eight of the nine photographs that you showed him
15 on the 19th, then moved on to talk about a number of other issues.

16 CDC [MR. McMILLAN]: This is the exhibit that was previously
17 admitted.

18 MJ [CAPT ALLRED]: Foxtrot?

19 CDC [MR. McMILLAN]: The 302 form relating to the 19th. Could I
20 have this displayed to the members?

21 MJ [CAPT ALLRED]: I'm sorry, which exhibit number are you
22 referring to? We have Echo and Foxtrot are the two you introduced
23 this morning.

1 CDC [MR. McMILLAN]: This is Echo, Defense Exhibit Echo.

2 MJ [CAPT ALLRED]: You may show again Defense Exhibit Echo to
3 the members. Yes.

4 Now, are you going to give us hard copies, or is the court
5 reporter capturing these as you put them on the ELMO? She's
6 capturing them. Okay.

7 Q [MR. McMILLAN]: You provided some testimony yesterday
8 regarding Mr. Hamdan driving Mr. bin Laden to the Al-Farouq training
9 camp. Do you recall that?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. McMILLAN]: And your interrogation summary describes how
12 Mr. bin Laden would address trainees at the training camp?

13 A [MR. [REDACTED]]: Where? Let me just--okay.

14 Q [MR. McMILLAN]: Do you see this?

15 A [MR. [REDACTED]]: Yes. I'm with you.

16 Q [MR. McMILLAN]: Do you recall independently that Mr. Hamdan
17 provided that information to you on the 19th of August?

18 A [MR. [REDACTED]]: I believe I do. I thought that was
19 interesting and important.

20 Q [MR. McMILLAN]: Did Mr. Hamdan also tell you at that time
21 that he actually grew bored of hearing Mr. bin Laden's harangues at
22 training camps, and would hang out with the drivers apart from his
23 speeches?

1 A [MR. ██████]: I don't recall that.

2 Q [MR. McMILLAN]: You don't recall.

3 A [MR. ██████]: I would find that even more interesting and
4 probably delve into that. I don't recall asking that question or Mr.
5 Hamdan offering that information.

6 Q [MR. McMILLAN]: He didn't offer that information, as far as
7 you recall?

8 A [MR. ██████]: Yes.

9 Q [MR. McMILLAN]: Would that mean that he wasn't entirely
10 forthcoming if, in fact, he offered that information to another
11 investigator, in your opinion?

12 A [MR. ██████]: Well, again, in my opinion. When I say Mr.
13 Hamdan was cooperative; if I asked him a specific question, he would
14 provide me a very narrow answer, and it would be my responsibility
15 then to continue to ask him questions. So he wasn't providing
16 additional details. So that's why, again--and not in just Mr.
17 Hamdan's case. Any time we interviewed someone, we would start a
18 very general interview and then try to get more and more specific.
19 So I would say these first two interviews were very broad-based. So,
20 again, he would answer only the question I asked of him.

21 **[END OF PAGE]**

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1 Q [MR. McMILLAN]: Okay. How long did that first interrogation
2 on the 19th last? Do you recall?

3 A [MR. [REDACTED]]: I'm going to guess. But based on my
4 experience here and with other interviews, I would say about two to
5 three hours with breaks and whatnot.

6 Q [MR. McMILLAN]: Okay. Were you aware, Special Agent [REDACTED],
7 that at midnight that night, the night after your interrogation on
8 the 19th, that Mr. Hamdan was awakened and subjected to another
9 interrogation?

10 A [MR. [REDACTED]]: I was not aware of that.

11 Q [MR. McMILLAN]: That he was subjected to interrogation by
12 different personnel than yourself and Detective [REDACTED]?

13 A [MR. [REDACTED]]: I was not aware of that.

14 Q [MR. McMILLAN]: Was there an interrogation planned with you
15 where Detective [REDACTED] had participated in advising with respect to
16 Mr. Hamdan?

17 A [MR. [REDACTED]]: What--and this was not anything to Mr. Hamdan.
18 What Mr. [REDACTED] and I would do would be review what information we
19 had, and try then to formulate questions that we could ask Mr. Hamdan
20 and others in an upcoming interview.

21 So it was not a systematic approach that was, you know, a policy
22 or anything like that. It was just, based on my experience, I wanted
23 to go into an interview at least having some questions and having

1 some knowledge about the person I was interviewing; because, from my
2 experience, the detainees didn't want to be asked the same questions
3 over and over and over, and it was, I felt, my responsibility to come
4 there with a specific agenda so that I could get the most information
5 in that time I had.

6 Q [MR. McMILLAN]: Okay. So you reviewed a file on Mr. Hamdan
7 before going in on August 19th?

8 A [MR. ██████████]: Yes.

9 Q [MR. McMILLAN]: And you participated in developing, with
10 others, an interrogation plan of sorts?

11 A [MR. ██████████]: It was just between Mr. ██████████ and myself.
12 We would pull what information we had, reviewed it, and said what do
13 we want to kind of do, you know, for the upcoming interview, and come
14 up with some questions. So I would say it was an informal plan. It
15 wasn't anything mandated by anyone.

16 Q [MR. McMILLAN]: So you weren't approached or working with
17 other personnel that had Mr. Hamdan in custody or other personnel
18 that had access to Mr. Hamdan in order to maximize the productivity
19 of the interrogations you were about to conduct?

20 A [MR. ██████████]: I was not aware of it, because I didn't see
21 the paperwork. Mr. Hamdan was not the only individual I interviewed.
22 So if other people had interviewed him simultaneously than me, I was
23 unaware of that.

1 Q [MR. McMILLAN]: Were any records or notes kept by you, or any
2 records, that you're aware of, in writing about the interrogation
3 plan with Mr. Hamdan?

4 A [MR. [REDACTED]]: Something that I wrote? Or----

5 Q [MR. McMILLAN]: No. Any that either you wrote or any that
6 existed, period.

7 A [MR. [REDACTED]]: I'm not aware of that.

8 CDC [MR. McMILLAN]: Your Honor, I at this point would like to
9 introduce a classified exhibit. And I have spoken with the court
10 security officer, who has instructed me on how this can be done
11 without clearing the courtroom or turning off public access to the
12 room.

13 What I would like to do is place on the ELMO a document produced
14 to us by the government as an interrogation record of Mr. Hamdan, and
15 have it published to you and to the witness first. A hard copy has
16 been provided to the prosecution. And then I would like to establish
17 a foundation for introduction into evidence.

18 MJ [CAPT ALLRED]: Okay. Let's make sure we've got this worked
19 out technologically. This requires counsel at their tables to turn
20 off their monitors. Done?

21 CTC [MR. MURPHY]: It is, Your Honor, on the prosecution's side.

22 MJ [CAPT ALLRED]: Okay. The technology engineer needs to power
23 down this. That's done? Okay. You may show the document to the

1 Court and to the witness.

2 I want to see it, too. I don't have anything right now.

3 Q [MR. McMILLAN]: Okay. Can you see the document, Special
4 Agent [REDACTED]?

5 A [MR. [REDACTED]]: It's a blank screen right now.

6 MJ [CAPT ALLRED]: Ditto.

7 CDC [MR. McMILLAN]: I'll need--Sergeant Mac and the technical
8 staff that we spoke with ahead of time are attempting to have this
9 displayed. We can use hard copies, Your Honor.

10 MJ [CAPT ALLRED]: Why don't we do that?

11 Okay. We'll have this marked. Do you intend to introduce
12 this into evidence?

13 CDC [MR. McMILLAN]: I do.

14 MJ [CAPT ALLRED]: Or simply challenge the witness's testimony
15 with it?

16 CDC [MR. McMILLAN]: I intend to introduce it into evidence,
17 Your Honor.

18 MJ [CAPT ALLRED]: Okay.

19 CDC [MR. McMILLAN]: Can I ask the bailiff to approach to
20 provide copies to the bench and to the witness?

21 MJ [CAPT ALLRED]: Well, show it to the court reporter, and let
22 her mark it first.

23 Thank you. This is Defense Exhibit Golf.

1 [Defense Exhibit G.]

2 Q [MR. McMILLAN]: Special Agent [REDACTED], you see at the top
3 that the subject of this interrogation is identified as Salim Ahmed
4 Hamdan, Salim Ahmed Salim Hamdan. Do you see that in the first few
5 lines?

6 A [MR. [REDACTED]]: Yes.

7 Q [MR. McMILLAN]: And do you see as well there's an indication
8 of the ISN 149 right before the name?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. McMILLAN]: And do you see the date up in the top
11 right-hand corner, 2002 08-20?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. McMILLAN]: And do you see the description of the subject
14 as a 32-1/2-year-old who claims Yemeni citizenship?

15 MJ [CAPT ALLRED]: Excuse me. All of this is marked Secret. It
16 doesn't help to show it to the witness if you then read from the
17 document in open court.

18 CDC [MR. McMILLAN]: I understand, Your Honor. I just--one and
19 two established that we were talking about the accused.

20 WIT [MR. [REDACTED]]: It's on the screen now.

21 MJ [CAPT ALLRED]: Okay. Well, I'm not going to allow
22 examination about anything in this document if it's all marked
23 Secret.

1 CDC [MR. McMILLAN]: Your Honor, the conference with the court
2 security officer clarified that it is the information in paragraphs A
3 on the approach used, B on the effectiveness of the approach used,
4 and C, the recommendations for the next meeting that are the
5 classified material in this document, going to methods of
6 interrogation. So I'm going to take care not to publicly disclose
7 that information.

8 MJ [CAPT ALLRED]: See, after the word "subject"?

9 WIT [MR. REDACTED]: Yes. It's all Secret.

10 CTC [MR. MURPHY]: Your Honor, each paragraph is marked Secret.

11 MJ [CAPT ALLRED]: That's the problem I'm referring to. Each
12 paragraph is separately classified at the secret level. So although
13 the paragraphs you identified are also classified at the secret
14 level, the summary and the identification of the subject are all
15 secret.

16 CDC [MR. McMILLAN]: Your Honor, I was taking direction from the
17 court security officer, so I will be cautioned. However, he did
18 assure me immediately prior to today's session that the comments I
19 intended to offer were not secret.

20 MJ [CAPT ALLRED]: Well, he's sitting right over there with his
21 button. So I will give you some latitude, and rely on him to stop us
22 when you get close to the line.

23

1 Q [MR. McMILLAN]: Special Agent [REDACTED], the purpose of this
2 document is simply to corroborate, A, that an interrogation of Mr.
3 Hamdan occurred after your first interrogation on the 19th that was
4 conducted around midnight. Do you see that set out in paragraph A of
5 this document? It should be in the highlighted, paragraph A.

6 A [MR. [REDACTED]]: Yeah. It just refers to an interview. It's
7 marked Secret, so I don't know what I can say.

8 MJ [CAPT ALLRED]: Just say, "Yes, I see that."

9 A [MR. [REDACTED]]: Yes, I see that.

10 Q [MR. McMILLAN]: Do you see, in the next paragraph, that he
11 was woken up from his sleep?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. McMILLAN]: And you had no knowledge that this had
14 occurred during the course of your series of interrogations of Mr.
15 Hamdan?

16 A [MR. [REDACTED]]: No.

17 Q [MR. McMILLAN]: Was this something you would have had an
18 opinion about had you been consulted with?

19 A [MR. [REDACTED]]: Of course. It's always--the more information
20 I have or more information you share, you know, it can be a more
21 coordinated effort in interviewing Mr. Hamdan.

22

23

1 Q [MR. McMILLAN]: Do you have an opinion as to whether this
2 would enhance or degrade the effectiveness of the interrogation that
3 you and Detective [REDACTED] were conducting?

4 A [MR. [REDACTED]]: I don't believe it had--based on my
5 experience, because we interviewed him subsequently to August 20th
6 where he provided more information, I don't think it affected my
7 interview in any way.

8 Q [MR. McMILLAN]: Would you have been interested to know that
9 this was occurring during the period in which you were interviewing
10 Mr. Hamdan?

11 A [MR. [REDACTED]]: Of course.

12 Q [MR. McMILLAN]: There wasn't a sort of good cop/bad cop thing
13 going on, as far as you know, where FBI agents would arrive to
14 interrogate Mr. Hamdan under circumstances that would be similar to
15 an interrogation in the United States, for example, but then other
16 personnel were conducting other techniques or using other techniques
17 at approximately the same time?

18 A [MR. [REDACTED]]: No. There was no, quote, good cop/bad cop, as
19 you have mentioned. It's not anything we do.

20 Q [MR. McMILLAN]: Okay.

21 CDC [MR. McMILLAN]: Your Honor, the defense would submit this
22 as the next defense exhibit in order as a business record that is
23 self-authenticating at this point.

1 CTC [MR. MURPHY]: We're not going to object as long as it's
2 treated as a secret document.

3 MJ [CAPT ALLRED]: Okay. Without objection, then, Defense
4 Exhibit Golf is admitted into evidence. I will return my copy to the
5 court reporter, and ask the bailiff to collect the witness's copy and
6 return it to the court reporter.

7 **[Defense Exhibit G admitted.]**

8 CDC [MR. McMILLAN]: Your Honor, if it's possible, now that it's
9 been admitted into evidence, to display to the members only as well
10 as the Court the image centered on the highlighted part. I think we
11 spoke about the possibility earlier with our technical people about
12 having a display just go to the members and not to be shown on this
13 screen. Can that be done?

14 MJ [CAPT ALLRED]: Yes, it can.

15 Sergeant Mac, would you stick your head in here and confirm that
16 the big screen has been powered down? Okay. Good. You can show
17 this document to the members of court.

18 CDC [MR. McMILLAN]: And the relevant sections which are the
19 subject of the examination are highlighted in the middle of this
20 document.

21 **[END OF PAGE]**

1 Q [MR. McMILLAN]: Okay. Thank you, Special Agent. I'd like to
2 now go on to the August 24th interrogation. A lot of the information
3 that he provided to you in that second interrogation was repetitive
4 of what had been provided to you in the first. Is that correct?

5 A [MR. [REDACTED]]: Some things, yes. We went back on, and I
6 think there was some enough information as well.

7 Q [MR. McMILLAN]: Okay.

8 CDC [MR. McMILLAN]: Your Honor, this is Defense Exhibit F. I
9 would like to have it published to the members.

10 MJ [CAPT ALLRED]: Very well.

11 Q [MR. McMILLAN]: I wanted to ask you, Special Agent [REDACTED],
12 whether you recall whether Mr. Hamdan told you that he took the
13 initiative to seek out Usama bin Laden and obtain a job, or whether
14 that was rather something suggested to him by another?

15 A [MR. [REDACTED]]: According to my report, he was told by a
16 mutual friend about a job.

17 Q [MR. McMILLAN]: He was told by a mutual friend that there may
18 be a job as a driver?

19 A [MR. [REDACTED]]: Yes.

20 Q [MR. McMILLAN]: And this friend then was prepared to take him
21 to meet Mr. bin Laden to see if Mr. Hamdan could obtain that job. Is
22 that correct?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. McMILLAN]: Do you recall Mr. Hamdan speaking to you
2 about return travel to Yemen on a number of occasions from
3 Afghanistan?

4 A [MR. ██████████]: Mr. Hamdan's travel to Yemen?

5 Q [MR. McMILLAN]: Yes.

6 A [MR. ██████████]: He mentioned one trip where he returned to
7 Yemen to marry.

8 Q [MR. McMILLAN]: One trip. Did he mention a second return
9 trip during the period of his association with bin Laden?

10 A [MR. ██████████]: In my interviews? No.

11 CDC [MR. McMILLAN]: I would like this to be shown to the
12 witness.

13 MJ [CAPT ALLRED]: We'll mark this as the next appellate exhibit
14 in order. Is this the page you want to show the witness?

15 CDC [MR. McMILLAN]: This, among several others.

16 MJ [CAPT ALLRED]: Okay.

17 CDC [MR. McMILLAN]: This is just to establish the
18 identification of the document.

19 Q [MR. McMILLAN]: Do you recognize that as the cover sheet for
20 notes that Detective ██████████ created relating to the August 24th
21 interrogation?

22 A [MR. ██████████]: Yes. Again, just to clarify, this is the
23 front cover of a 1A envelope. So it's an envelope that we would put

1 our notes in, and this is just the cover. So I wouldn't say it's a
2 cover sheet. It's actually an envelope.

3 Q [MR. McMILLAN]: Okay. And this relates to the interrogation
4 of ISN 149, Salim Hamdan?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. McMILLAN]: And I believe you had identified this
7 handwriting as your handwriting. Is that correct?

8 A [MR. [REDACTED]]: Yes. That is my handwriting.

9 Q [MR. McMILLAN]: Looking at what's on your notes of this
10 August 24th interview, does this refresh your recollection concerning
11 the number of trips back to Yemen that Mr. Hamdan took?

12 A [MR. [REDACTED]]: I can't see what's--I can't see my entire
13 notes. Not the highlighted portion, but what's the--okay. There we
14 go.

15 Q [MR. McMILLAN]: Do you see this language that I'm pointing
16 to?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. McMILLAN]: It indicates that Mr. Hamdan went to
19 Afghanistan three times. Correct?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. McMILLAN]: The first time in 1996. Right?

22 A [MR. [REDACTED]]: Well, I think--if I can explain here. I think
23 those are indicating just periods. It wasn't that he left the

1 country, physically left the country and came back. I think it was
2 significant moments. So I don't think it's fair to say in my note
3 that he left Afghanistan three times there.

4 What I was trying to put here, from what I recall, is that
5 in 1996 he arrived in Afghanistan; 1998, he did physically leave
6 Afghanistan to go to Yemen for what appears to be ten months. And
7 that's when he married, goes back. And I think it's probably--again,
8 we're taking notes here. So I have Yemen here. I'll say that--I'm
9 not sure if that was back to Yemen. I would think that's probably
10 back to Afghanistan. And, again--or maybe he does leave there.
11 Excuse me. And then 1999, he goes back to Afghanistan for eight to
12 nine months.

13 That middle note to me is somewhat--I don't fully recall
14 what I was trying to get there.

15 Q [MR. McMILLAN]: Okay. So it's difficult to recollect, even
16 with the help of these notes, how many times he traveled back to
17 Yemen during the course of his association with bin Laden?

18 A [MR. [REDACTED]]: Well, yes, from these notes. But I believe,
19 once I talked to Mr. [REDACTED], because the notes again aren't the
20 only--my only sense of recollection. My conversation with Mr.
21 [REDACTED] may have clarified that. And I believe what's in the 302 is
22 accurate; that he only went one time to marry, and then returned.

23

1 Q [MR. McMILLAN]: Okay. Well, let's just look at the notes.

2 It says, went to Afghanistan three times. Correct?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. McMILLAN]: Okay. 1996, arrived in Afghanistan. Do you
5 see that?

6 A [MR. [REDACTED]]: Yes.

7 Q [MR. McMILLAN]: And there's a line that says, fight in
8 Tajikistan.

9 A [MR. [REDACTED]]: Yes. He initially traveled through
10 Afghanistan to get to Tajikistan.

11 Q [MR. McMILLAN]: The next line says, 1998, back to Yemen, ten
12 months.

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. McMILLAN]: End 1998, back to Yemen. Do you see that?
15 Am I reading that correctly?

16 A [MR. [REDACTED]]: Yeah. And I think maybe that was based on how
17 I--I've done thousands of interviews, and I think maybe that was
18 trying to say, at the end of 1998 he returned to Afghanistan. He
19 spent ten months. I think he left early 1998 and returned the end of
20 1998. But, again, I would have to defer to my 302 as being accurate.
21 The notes aren't the only source of my recollection.

22

23

1 Q [MR. McMILLAN]: Okay. And the next line says, mid 1999, goes
2 back to Afghanistan 8, slash, 9 months. Is that correct?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. McMILLAN]: Okay. And then the final line, as far as we
5 can tell, says mid 2000, back to--and there's a partial word. I
6 guess that's--do you see that?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. McMILLAN]: Now, Special Agent [REDACTED], it sounds like
9 you don't have an independent recollection about how many times he
10 traveled back to Yemen during the course of his association.

11 A [MR. [REDACTED]]: No, I don't. From what my interview with Mr.
12 Hamdan indicated was--and my notes--the one trip.

13 Q [MR. McMILLAN]: Did Mr. Hamdan tell you during that second
14 interrogation on the 24th that one of the criteria for being a
15 bodyguard that was important to Mr. bin Laden was the size of the
16 individual and physique and being in shape?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. McMILLAN]: He did? Okay. Do you see here in your
19 notes, you've written down, "Big guys, in shape, most important
20 thing." Correct?

21 A [MR. [REDACTED]]: Yes.

22

23

1 Q [MR. McMILLAN]: And that's under the section relating to
2 bodyguards. Correct?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. McMILLAN]: Okay. This is when you were showing him
5 photographs, and this relates to number 40 specifically.

6 A [MR. [REDACTED]]: Yes.

7 Q [MR. McMILLAN]: Correct? Who he identified as one of the
8 bodyguards. Right?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. McMILLAN]: And you see then in your handwriting, "Most
11 important thing, big guys, in shape." And my question is, what is
12 the "with"?

13 A [MR. [REDACTED]]: With smarts.

14 Q [MR. McMILLAN]: With smarts, dash, intelligent.

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. McMILLAN]: And then there's a line below that, finally,
17 that says, "Get guards from training camps." Correct?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. McMILLAN]: Did you form an opinion about whether Mr.
20 Hamdan was a bodyguard during the course of the time you were
21 interrogating him?

22 A [MR. [REDACTED]]: Yes. I believe being a bodyguard--I believe
23 Mr. Hamdan was a bodyguard.

1 Q [MR. McMILLAN]: You formed that opinion?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. McMILLAN]: During the course of your interrogation?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. McMILLAN]: Because, in your view, did he satisfy these
6 criteria?

7 A [MR. [REDACTED]]: Yeah. I believe Mr. Hamdan has an incredible
8 amount of street smarts. You can't travel around Afghanistan and not
9 be street smart. Obviously, in shape. And size is a matter of
10 opinion.

11 Q [MR. McMILLAN]: Obviously, in shape?

12 A [MR. [REDACTED]]: Again, matter of opinion.

13 Q [MR. McMILLAN]: To your observation in August of 2002, did
14 you consider Mr. Hamdan in shape?

15 A [MR. [REDACTED]]: On appearance, yes.

16 Q [MR. McMILLAN]: Did you consider him a big guy?

17 A [MR. [REDACTED]]: Based on my knowledge of that region, yeah, I
18 would say so.

19 Q [MR. McMILLAN]: Do you know what his weight was at the time
20 of his capture?

21 A [MR. [REDACTED]]: I do not.

22

23

1 Q [MR. McMILLAN]: Okay. Can I direct your attention to the
2 highlighted section of your notes at the bottom of the page. Could
3 you read those to the Court?

4 A [MR. [REDACTED]]: Three cars stopped. Did not know other.

5 Q [MR. McMILLAN]: Does that refresh your recollection at all
6 concerning whether or not Mr. Hamdan said they were traveling
7 together?

8 A [MR. [REDACTED]]: I don't think that really explains anything.
9 I don't know.

10 Q [MR. McMILLAN]: The phrase, "Did not know other," and then
11 proceeds to be again cut off at the edge of the page, is that--why
12 did you write that down?

13 A [MR. [REDACTED]]: I don't recall.

14 CDC [MR. McMILLAN]: Your Honor, the defense would like to offer
15 these notes into evidence as the next defense exhibit in order.

16 MJ [CAPT ALLRED]: You can offer this as an appellate exhibit if
17 it was used to refresh the recollection of a witness, but not as an
18 exhibit in your case in chief.

19 What's the next appellate exhibit number?

20 CDC [MR. McMILLAN]: Your Honor, these notes contain past
21 recollection recorded that in some respects varied from the testimony
22 that's been heard, and it indeed varies from the material recorded in
23 the 302s. And it's being offered for substantive information that

1 appears nowhere else.

2 MJ [CAPT ALLRED]: Okay. Well, you've offered an exception to
3 the hearsay rule. I think if hearsay were the objection, that would
4 probably meet that.

5 CTC [MR. MURPHY]: Your Honor, the witness has not been
6 impeached by these. They are consistent with his testimony and his
7 302s.

8 MJ [CAPT ALLRED]: You said throughout that you were refreshing
9 the witness's recollection. Documents shown to a witness to refresh
10 his recollection are admitted as appellate exhibits rather than
11 substantive evidence. So this will be Appellate Exhibit 296, a
12 single number assigned to the entire document.

13 Q [MR. McMILLAN]: Okay. The last topic, Special Agent [REDACTED].
14 Is the testimony that you've offered yesterday to Mr. Murphy that, in
15 your opinion, the acts that were described to you would constitute a
16 chargeable offense: Conspiracy. Do you recall saying that?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. McMILLAN]: You understand that Mr. Hamdan is charged
19 with conspiracy under the Military Commissions Act. Right?

20 A [MR. [REDACTED]]: Yes.

21 Q [MR. McMILLAN]: Are you a prosecuting attorney, Special
22 Agent?

23 A [MR. [REDACTED]]: No. No, I'm not.

1 Q [MR. McMILLAN]: Are you an attorney at all?

2 A [MR. [REDACTED]]: No.

3 Q [MR. McMILLAN]: You understand that the Military Commissions
4 Act-----

5 CDC [MR. McMILLAN]: And this is a demonstrative exhibit, Your
6 Honor. I would request that it be published to the commission and to
7 the gallery.

8 MJ [CAPT ALLRED]: Okay. This will be marked as Appellate
9 Exhibit 297. You're just going to show the front page?

10 CDC [MR. McMILLAN]: This is the front page of the Military
11 Commissions Act.

12 Q [MR. McMILLAN]: Do you understand, Special Agent [REDACTED],
13 that the Military Commissions Act is an act to authorize trial by
14 military commissions of violations of the law of war, and for other
15 purposes? Is that something you had in mind when you offered that
16 opinion to Mr. Murphy yesterday?

17 A [MR. [REDACTED]]: No, I did not.

18 Q [MR. McMILLAN]: You don't hold yourself out as an expert on
19 the law of war. Do you?

20 A [MR. [REDACTED]]: No.

21 [END OF PAGE]

22

23

1 Q [MR. McMILLAN]: You didn't examine the elements of crimes
2 that would be chargeable under the Military Commissions Act before
3 you offered that opinion. Did you?

4 A [MR. [REDACTED]]: Based on my experience on what a conspiracy
5 charge constitutes, that's how I rendered my opinion.

6 Q [MR. McMILLAN]: And the conspiracy charge that you had in
7 mind is the conspiracy charge under U.S. Criminal Code. Is that
8 correct?

9 A [MR. [REDACTED]]: That would be probably its foundation, yes.
10 But I guess I'm assuming it's similar to this conspiracy charge.

11 Q [MR. McMILLAN]: Okay. So that's an assumption on your part,
12 without having reviewed the elements of the crimes set out in the
13 MCA?

14 A [MR. [REDACTED]]: Yes. That's fair.

15 Q [MR. McMILLAN]: And you haven't looked at the Manual for
16 Military Commissions that identifies the criminal elements for
17 conspiracy in a Military Commissions trial. Right?

18 A [MR. [REDACTED]]: No, I have not.

19 Q [MR. McMILLAN]: And you don't have an independent opinion as
20 to whether conspiracy traditionally had been deemed a law of war
21 offense. Do you?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. McMILLAN]: And you didn't have in mind any previous
2 litigation in this case concerning conspiracy, I take it?

3 A [MR. [REDACTED]]: Can you repeat that, please?

4 Q [MR. McMILLAN]: Let me strike that.

5 The conduct that was the subject of your investigation occurred
6 from the period 1996 to 2001 with respect to Mr. Hamdan. Is that
7 right?

8 A [MR. [REDACTED]]: Yes. And in a very general way. I would make
9 note of that.

10 Q [MR. McMILLAN]: Does that mean you were investigating conduct
11 outside of 1996 to 2001?

12 A [MR. [REDACTED]]: No. I was just saying, the contents in that
13 time period, mine was very general.

14 Q [MR. McMILLAN]: Do you know whether the Military Commissions
15 Act was in place in 2001?

16 A [MR. [REDACTED]]: No, I do not.

17 CTC [MR. MURPHY]: Objection, Your Honor. This witness is not a
18 legal expert; and questioning him on the federal statute is beyond
19 his competence.

20 MJ [CAPT ALLRED]: This is what you did yesterday.

21 CTC [MR. MURPHY]: Well, I didn't go into the statute and ask
22 for legal opinions.

23 MJ [CAPT ALLRED]: All right. I will turn it off now. But you

1 got this witness to express the opinion that this would have been a
2 conspiracy, and it's absolutely fair for the defense to show that the
3 law might be different in a military commission.

4 CDC [MR. McMILLAN]: Thank you, Your Honor. I have no further
5 questions.

6 Thank you, Special Agent.

7 MJ [CAPT ALLRED]: Very good. Mr. Murphy.

8 CTC [MR. MURPHY]: Thank you, Your Honor.

9 **REDIRECT EXAMINATION**

10 **Questions by the trial counsel:**

11 Q [MR. MURPHY]: Picking up on that last topic. You used the
12 term that I don't think you defined; and, in my double-hatted duty,
13 you said an AUSA and an able Reserve JAG. I often use that term,
14 AUSA, and I think you used it the other day on this subject. What is
15 that?

16 A [MR. [REDACTED]]: Assistant United States Attorney.

17 Q [MR. MURPHY]: That's someone you would go to on criminal
18 prosecutions, based on your investigations?

19 A [MR. [REDACTED]]: Yes. Which includes counterterrorism charges.

20 **[END OF PAGE]**

1 Q [MR. MURPHY]: All right. I just want to cover a couple
2 topics on cross.

3 You discussed that, based on your investigations and
4 admissions by the accused, that bodyguards and drivers were one and
5 the same?

6 A [MR. ██████████]: Yes.

7 Q [MR. MURPHY]: Is that right? Can you elaborate on that so we
8 fully understand what you mean by that?

9 A [MR. ██████████]: Yes. Based on my interviews and my knowledge
10 thereafter, and before, having the responsibility of a driver also
11 meant you had to have the abilities as a bodyguard, because you were
12 transporting Usama bin Laden, the subject of the detail.

13 So you couldn't be just a driver not in coordination, not
14 having training as a bodyguard. It would not be--it would be not
15 practical to exercise that type of control over Usama bin Laden. So
16 they have to work in unison.

17 So, yes, a driver and a bodyguard are the same.

18 Q [MR. MURPHY]: Now, there was a lot of questioning on 302s,
19 and he was showing you 302 reports. Is there any error in those 302
20 reports?

21 A [MR. ██████████]: No.

22

23

1 Q [MR. MURPHY]: Your testimony in the 302 reports are
2 consistent. Is that correct?

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. MURPHY]: And the same is true with your notes? Do you
5 believe there's any error in your notes?

6 A [MR. [REDACTED]]: No errors.

7 Q [MR. MURPHY]: Now, on the issue of another interview, or
8 interrogation, as the defense defined it, that you did not
9 participate in; that was part of the classified document, that was
10 not working in coordination with you in any way. Is that right?

11 A [MR. [REDACTED]]: Yeah. I was unaware of that interview.

12 Q [MR. MURPHY]: All right. Let me obtain my hard copy of that.
13 Did you note the third page of that particular?

14 MJ [CAPT ALLRED]: He doesn't have the document anymore. Are
15 you referring to Defense Exhibit Golf?

16 CTC [MR. MURPHY]: Yes, the secret document.

17 Your Honor, I don't need to have it displayed, if I can
18 approach the witness to show him the third page.

19 MJ [CAPT ALLRED]: You may.

20 Q [MR. MURPHY]: Based on this interview that you did not
21 coordinate or participate in, was there any new information obtained?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. MURPHY]: Were there any additional comments by the
2 collector of the information?

3 A [MR. ██████████]: No.

4 Q [MR. MURPHY]: Nothing new?

5 A [MR. ██████████]: Nothing new.

6 Q [MR. MURPHY]: When you dealt with the accused, did he seem in
7 any way impaired to talk with you? Too sleepy, sick, or physically
8 or mentally incapable of having a conversation with you?

9 A [MR. ██████████]: No.

10 Q [MR. MURPHY]: If you encountered him in such a condition,
11 what would you do?

12 A [MR. ██████████]: Well, we always kind of did a welfare check,
13 just to ask how he was doing. We wouldn't--when I was with Mr.
14 ██████████, we wouldn't just enter the interview room and immediately
15 start into asking questions. Common courtesy: How is he doing, how
16 are you feeling, how is your day? We would always start with some
17 small talk and build up into the interview.

18 So during that 10, 15 minutes, sometimes even longer, if he
19 appeared to be sleepy or tired, I think he would have told us at that
20 time. And as with other detainees, if he needed some assistance or
21 didn't want to talk to us, we would have just terminated the
22 interview. It wasn't useful for me to be there if he was not able or
23 willing to talk. There were plenty of other people to talk to.

1 Q [MR. MURPHY]: Now, the defense went through your notes on
2 admissions of the accused regarding the physical status of
3 bodyguards, emphasizing that they were big guards, that they were in
4 shape, and focusing on your words in your written notes. Do you
5 recall that?

6 A [MR. [REDACTED]]: Yes.

7 Q [MR. MURPHY]: Are you aware that there's actual pictures of
8 the accused being a bodyguard?

9 A [MR. [REDACTED]]: Are there pictures?

10 Q [MR. MURPHY]: Are you aware that they exist?

11 A [MR. [REDACTED]]: No.

12 Q [MR. MURPHY]: Okay.

13 CTC [MR. MURPHY]: I have nothing further, Your Honor.

14 MJ [CAPT ALLRED]: Very good. Thank you.

15 CDC [MR. McMILLAN]: Just a couple questions.

16 **RECROSS-EXAMINATION**

17 **Questions by the defense counsel:**

18 Q [MR. McMILLAN]: Special Agent [REDACTED], were you aware that
19 there was previous testimony that individuals at a particular
20 interview when UBL was present and putting on a show for the press in
21 connection with surrounded by bodyguards?

22 A [MR. [REDACTED]]: Can you--I'm not familiar with that. I don't
23 know what you're----

1 Q [MR. McMILLAN]: Well, Mr. Murphy asked you a question as to
2 whether or not you were aware that there was actually pictures of Mr.
3 Hamdan serving as a bodyguard, and you said you were not aware of
4 that.

5 A [MR. [REDACTED]]: Yeah.

6 Q [MR. McMILLAN]: And I'm asking whether or not you're aware of
7 any circumstances in which such pictures may have been created?

8 A [MR. [REDACTED]]: No.

9 Q [MR. McMILLAN]: Now, you said that, as far as you could
10 determine, bodyguards and drivers were one and the same. Is that
11 fair?

12 A [MR. [REDACTED]]: Yeah. I would say that they were, yeah, the
13 same.

14 Q [MR. McMILLAN]: Despite the fact that the bodyguards resided
15 in the same house, you were told, with Mr. bin Laden, and drivers
16 were generally separate?

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. McMILLAN]: Okay. Let me display one of your notes,
19 again, from the August 24th interrogation, and ask you to explain
20 what this graphic--is that a graphic you drew on the 24th?

21 A [MR. [REDACTED]]: That is my handwriting.

22

23

1 Q [MR. McMILLAN]: Okay. And there are four different circles,
2 and one of them has a circle around "UBL guards." Do you see that?

3 A [MR. [REDACTED]]: Yes.

4 MJ [CAPT ALLRED]: Mr. McMillan, may I interrupt you? Are you
5 showing the witness a page from Appellate Exhibit 296, his notes? Or
6 is this a new document?

7 CDC [MR. McMILLAN]: This is from the appellate exhibit of
8 8/24/02, interrogation.

9 MJ [CAPT ALLRED]: His notes?

10 CDC [MR. McMILLAN]: His notes.

11 MJ [CAPT ALLRED]: Okay. It's already been marked then.

12 CDC [MR. McMILLAN]: It's been marked.

13 MJ [CAPT ALLRED]: I would like the record to be clear what
14 you're showing him. We don't need to mark that as a new exhibit.

15 CDC [MR. McMILLAN]: Okay.

16 Q [MR. McMILLAN]: Do you have a recollection as to why a circle
17 is drawn around "UBL guards" in one instance in these notes, and then
18 a separate circle is drawn around the word "driver" in another spot
19 on this page?

20 A [MR. [REDACTED]]: Yes. I think this is what I referred to
21 earlier, when I would sit down with Mr. [REDACTED] and kind of come up
22 with notes and questions. And I think I put this together from
23 the--I believe, the August 19th interview or in coordination with

1 that. And this was my understanding of how the whole
2 driver/bodyguard system would work and how they would transport Mr.
3 bin Laden.

4 Q [MR. McMILLAN]: Okay. And----

5 CDC [MR. McMILLAN]: Your Honor, could this be displayed to the
6 members as a demonstrative exhibit? I would like to ask the witness
7 to explain what he meant when he drew this graphic, and what this
8 system he just referred to relates to.

9 MJ [CAPT ALLRED]: No. But you can describe it, since he's
10 looking at it.

11 CDC [MR. McMILLAN]: Okay.

12 Q [MR. McMILLAN]: Well, will you go ahead and describe why a
13 circle around "UBL guards" appears separate in this graphic, and
14 another circle around "driver"?

15 A [MR. ██████████]: Sure. I believe this was kind of a flow chart
16 of how--for example, if Usama bin Laden wanted to move from, say, one
17 of his homes to another one of his homes, he would always move with
18 bodyguards. And this was kind of just how it was handled.

19 So, from the little chart or flow chart I drew, Usama bin
20 Laden's son would contact both the guards and the required driver for
21 that time. They would get together. The guards would, I
22 believe--you know, going on what I've seen--would move Mr. Usama bin
23 Laden to the car where Mr. Hamdan or another driver would be waiting

1 in the car, part of being briefed to the detail, and then move him to
2 a destination at the end, whatever his destination would be.

3 So it was kind of a general flow of how they move Usama bin
4 Laden.

5 Q [MR. McMILLAN]: And you see the word "Hamdan" right above the
6 circle that says "driver"?

7 A [MR. ██████████]: Yes.

8 Q [MR. McMILLAN]: Is that intended by you to be associated with
9 the driver?

10 A [MR. ██████████]: Yes.

11 Q [MR. McMILLAN]: So----

12 A [MR. ██████████]: Yes.

13 Q [MR. McMILLAN]: Hamdan was associated with the driver's
14 circle in this graphic?

15 A [MR. ██████████]: Yes.

16 Q [MR. McMILLAN]: Now, you testified as well that you were not
17 aware of any way in which the notes corrected the 302s.

18 CDC [MR. McMILLAN]: And I'm now putting on the screen Defense
19 Exhibit F, which is the 302 of the August 24th interrogation.

20 MJ [CAPT ALLRED]: Very well.

21 CDC [MR. McMILLAN]: And I would ask that it be published to the
22 members.

23 MJ [CAPT ALLRED]: It may.

1 [Brief pause.]

2 MJ [CAPT ALLRED]: That's a good idea.

3 Q [MR. McMILLAN]: My question goes to the name of the
4 individual who----

5 CTC [MR. MURPHY]: The translator's name needs to be blocked
6 off.

7 Q [MR. McMILLAN]: My question goes to the name of the
8 individual who informed Mr. Hamdan that there was a job available for
9 him in Kandahar. Do you see that identified, underscored in blue
10 pen?

11 A [MR. ██████████]: Yes.

12 Q [MR. McMILLAN]: And what does that mean?

13 A [MR. ██████████]: Mohammed.

14 Q [MR. McMILLAN]: It's Mohammed. Is that correct?

15 A [MR. ██████████]: Yes.

16 Q [MR. McMILLAN]: Mohammed?

17 A [MR. ██████████]: Yes.

18 CDC [MR. McMILLAN]: I would now like to put back the notes that
19 are the last appellate exhibit in order, which are not in view of the
20 members.

21 MJ [CAPT ALLRED]: Very well.

22

23

1 Q [MR. McMILLAN]: Is this your handwriting, Special Agent
2 [REDACTED]?
3 A [MR. [REDACTED]]: Yes, it is.
4 Q [MR. McMILLAN]: Okay. This, just to give you the context,
5 these are your notes about Mr. Hamdan going to try to get into
6 Tajikistan, could not cross into the border--cross the border.
7 Kabul. And then the highlighted section.
8 A [MR. [REDACTED]]: Yes.
9 Q [MR. McMILLAN]: Was told by Mohammed Yemeni about a job?
10 A [MR. [REDACTED]]: Yes.
11 Q [MR. McMILLAN]: Do you see, Mohammed?
12 A [MR. [REDACTED]]: Yes.
13 Q [MR. McMILLAN]: And it's lined out. Correct?
14 A [MR. [REDACTED]]: Yes.
15 Q [MR. McMILLAN]: And there's another name inscribed
16 underneath. Right?
17 A [MR. [REDACTED]]: Yes.
18 Q [MR. McMILLAN]: And what is that other name?
19 A [MR. [REDACTED]]: Just a variant spelling of Mohammed.
20 Q [MR. McMILLAN]: So it's Mohamnad. Right?
21 A [MR. [REDACTED]]: Well, I believe it's--I'm writing the notes so
22 quickly, I believe I meant to put M's there.
23

1 Q [MR. McMILLAN]: M?

2 A [MR. [REDACTED]]: M's. You can spell Mohammed with an E or an A
3 at the end. There are many, many ways to spell Mohammed.

4 Q [MR. McMILLAN]: So it's your testimony that there's no
5 difference between Mohammed and Mohamnad?

6 A [MR. [REDACTED]]: Well, I believe I just said, I think the N's
7 are--and I'm writing quickly while I'm interviewing Mr. Hamdan, that I
8 believe those are probably--or, should have been M's. Mohamnad
9 doesn't----

10 Q [MR. McMILLAN]: Well, which one is lined out, Special Agent
11 [REDACTED]? Which one is crossed out on your notes?

12 A [MR. [REDACTED]]: Again, I lined out Mohammed I think because it
13 was E-D, and I think maybe the linguist said it was A-D. And I'm
14 writing it quickly. I know what I mean in my notes. I believe those
15 N's should be M's.

16 Q [MR. McMILLAN]: And then below, you used the word Mohamnad.

17 A [MR. [REDACTED]]: Again----

18 Q [MR. McMILLAN]: Again. Right?

19 A [MR. [REDACTED]]: That's my cursive writing. I believe those
20 should be M's.

21 [END OF PAGE]

22

23

1 Q [MR. McMILLAN]: But in that second spot, you used an E-D.
2 Correct?

3 A [MR. ██████████]: Yes. Because I know that Mohammed is
4 Mohammed.

5 Q [MR. McMILLAN]: So the correction perhaps didn't have to do
6 with the vowel, A or E. Did it? It had to do with the consonant, N
7 or M. Is that fair to assume?

8 A [MR. ██████████]: I don't recall. I just know that Mohammed was
9 an associate of bin Laden who told Mr. Hamdan about the job. Its
10 spelling is not important.

11 Q [MR. McMILLAN]: Okay. So you don't think that that would
12 reflect an error on the face of the 302, when the word Mohammed is
13 used?

14 A [MR. ██████████]: Mohammed is the right word. So it's not a
15 mistake.

16 Q [MR. McMILLAN]: Mohammed is the right word?

17 A [MR. ██████████]: Yes.

18 Q [MR. McMILLAN]: Not Mohamnad?

19 A [MR. ██████████]: No. Mohammed.

20 Q [MR. McMILLAN]: Thank you.

21 A [MR. ██████████]: Thank you.

22 CDC [MR. McMILLAN]: Nothing further.

23 MJ [CAPT ALLRED]: Mr. Murphy?

1 CTC [MR. MURPHY]: On the issue of a government driver----

2 MJ [CAPT ALLRED]: Wait a minute. Is this a government witness?

3 CTC [MR. MURPHY]: Your Honor?

4 MJ [CAPT ALLRED]: This is a government witness.

5 CTC [MR. MURPHY]: Yes.

6 MJ [CAPT ALLRED]: We've had two directs and two crosses. You

7 shouldn't be standing up.

8 CTC [MR. MURPHY]: Okay.

9 MJ [CAPT ALLRED]: If this is an important question----

10 CTC [MR. MURPHY]: It is a single question, and it is important.

11 MJ [CAPT ALLRED]: Okay. I'll give the defense the last word

12 then.

13 CTC [MR. MURPHY]: Okay.

14 **FURTHER REDIRECT EXAMINATION**

15 **Questions by the trial counsel:**

16 Q [MR. MURPHY]: On the issue of bodyguards/drivers, is there an

17 importance on who the accused reported to?

18 A [MR. REDACTED]: No.

19 Q [MR. MURPHY]: And who did he report to?

20 CDC [MR. McMILLAN]: Objection. One question. The answer was

21 "no."

22 CTC [MR. MURPHY]: I was hoping to get the name.

23 MJ [CAPT ALLRED]: Okay. You've had your turn. Go sit down.

1 CTC [MR. MURPHY]: All right.

2 MJ [CAPT ALLRED]: Okay. You get one question.

3 CDC [MR. McMILLAN]: I will take it from here.

4 **FURTHER RECROSS-EXAMINATION**

5 **Questions by the defense counsel:**

6 Q [MR. McMILLAN]: Are you aware, Special Agent [REDACTED], that
7 Special Agent [REDACTED] testified previously that the individual who
8 advised Mr. Hamdan about the job--a potential job with UBL was
9 Mohamnad bin Attash, not Mohammed?

10 A [MR. [REDACTED]]: I did not review or know Mr. [REDACTED] testimony.

11 CDC [MR. McMILLAN]: Okay. Thank you.

12 MJ [CAPT ALLRED]: Thank you.

13 I didn't mean to be discourteous with you. I think we beat
14 this pretty well to death, so it's time to wrap it up.

15 Can we excuse this witness then?

16 CTC [MR. MURPHY]: We can, Your Honor. And unless he's retained
17 by the commission, he is planning on leaving the island.

18 MJ [CAPT ALLRED]: No. None of these witnesses belong to me.
19 They belong to you.

20 Thank you.

21 Oh, I'm sorry, now. The members have some questions.

22 Bailiff, would you go get the question, please, from member
23 number 7. Have you signed this, sir?

1 MBR [7]: Yes, sir.

2 MJ [CAPT ALLRED]: Okay. Bailiff, show it to the defense team,
3 then show it to the government team, then bring it up to the bench.

4 **[Brief pause.]**

5 MJ [CAPT ALLRED]: Okay. What does it mean to pledge bayat? Do
6 you know?

7 WIT [MR. ██████████]: Yes.

8 MJ [CAPT ALLRED]: To pledge bayat?

9 WIT [MR. ██████████]: Yes. In general terms, yes.

10 MJ [CAPT ALLRED]: Okay. Can you explain that?

11 WIT [MR. ██████████]: My understanding of what bayat means is,
12 it's a sacred oath to an individual that you have their--that
13 individual's undevoted, or--completely devoted to a mission or a
14 cause or a belief. So that's my understanding of bayat.

15 So Usama bin Laden would ask his close members and members
16 of the al Qaeda network to pledge bayat, absolute allegiance to bin
17 Laden and al Qaeda, so that they would have a cohesive unit that
18 would fulfill their missions or their desires.

19 I think it goes way beyond that, the whole bayat thing.
20 I'm not an expert on it, but that's my general understanding.

21 MJ [CAPT ALLRED]: Is that responsive to your question, sir?

22 MBR [7]: Yes, sir.

23 MJ [CAPT ALLRED]: Very well. We'll attach it as the next

1 appellate exhibit in order.

2 Any other questions from the members? Okay.

3 Thank you. Mr. [REDACTED], you are excused as a witness and
4 you may return to your duties.

5 WIT [MR. [REDACTED]]: Thank you.

6 **[The witness was duly warned, permanently excused, and withdrew from**
7 **the courtroom.]**

8 MJ [CAPT ALLRED]: Okay. I think maybe we need a recess? Who
9 is our next witness, trial counsel?

10 CTC [MR. MURPHY]: Our next witness is Mr. [REDACTED]. Are we
11 taking a break, Your Honor, or proceeding?

12 MJ [CAPT ALLRED]: I was thinking that it might be a good time
13 for a break.

14 CTC [MR. MURPHY]: Yes, sir.

15 MJ [CAPT ALLRED]: Is that okay?

16 CTC [MR. MURPHY]: That will be our next witness.

17 MJ [CAPT ALLRED]: Okay. Why don't we take a recess for about
18 15 minutes?

19 **[The military commission recessed at 0943, 25 July 2008.]**

20 **[The military commission was called to order at 0958, 25 July 2008.**

21 **All parties present when the commission recessed were once again**
22 **present.]**

23 MJ [CAPT ALLRED]: Please be seated. Court is called to order.

1 Trial counsel, please call your next witness.

2 CTC [MR. MURPHY]: Your Honor, we would call Mr. [REDACTED], who
3 is standing in the hallway outside the courtroom.
4 [REDACTED], civilian, was called as a witness for the
5 government, was sworn, and testified as follows:

6 DIRECT EXAMINATION

7 Questions by the trial counsel:

8 Q [MR. MURPHY]: Could you please state your name, and spell
9 your last name for the record.

10 A [MR. [REDACTED]]: [REDACTED]

11 Q [MR. MURPHY]: In January of 2003, who were you employed by
12 and what were your duties?

13 A [MR. [REDACTED]]: I was employed by the United States Army
14 Criminal Investigation Command, a part of CITF. I was a Special
15 Agent.

16 Q [MR. MURPHY]: And you used the term CITF. If you could
17 define that for us. What does that stand for?

18 A [MR. [REDACTED]]: Criminal Investigation Task Force.

19 Q [MR. MURPHY]: Please tell the commission about your formal
20 education, your law enforcement training, and your current position.

21 A [MR. [REDACTED]]: I have a master's degree in security
22 management, a bachelor's degree in criminal justice. I'm currently
23 employed by the Department of State. I'm a program manager for the

1 security incident program.

2 Q [MR. MURPHY]: Do you have any specialized law enforcement
3 training?

4 A [MR. [REDACTED]]: In protection.

5 Q [MR. MURPHY]: Do you speak more than one language?

6 A [MR. [REDACTED]]: No.

7 Q [MR. MURPHY]: Did CITF give you an assignment to interview
8 the accused, Salim Hamdan?

9 A [MR. [REDACTED]]: Yes.

10 Q [MR. MURPHY]: When did you get that assignment?

11 A [MR. [REDACTED]]: That would have been January.

12 Q [MR. MURPHY]: Of what year?

13 A [MR. [REDACTED]]: 2003.

14 Q [MR. MURPHY]: And did you in fact interview him, with others?

15 A [MR. [REDACTED]]: Yes, I did.

16 Q [MR. MURPHY]: I would ask you to look around the courtroom
17 and see if you recognize the individual you interviewed at that time.
18 And if you can, point to him and identify an article of clothing he
19 is wearing.

20 A [MR. [REDACTED]]: That would be him, with the white scarf.

21 Q [MR. MURPHY]: All right. If you could point.

22 CTC [MR. MURPHY]: May the record reflect that the witness has
23 properly identified the accused in this case.

1 MJ [CAPT ALLRED]: Very well.

2 Q [MR. MURPHY]: When, specifically, did you interview the
3 accused?

4 A [MR. [REDACTED]]: January 2003.

5 Q [MR. MURPHY]: And where did you interview him?

6 A [MR. [REDACTED]]: That would be Camp Delta, Guantanamo Bay,
7 Cuba.

8 Q [MR. MURPHY]: How many times did you interview him?

9 A [MR. [REDACTED]]: Only one time.

10 Q [MR. MURPHY]: Could you describe for us the conditions under
11 which you interviewed him, particularly describing the room?

12 A [MR. [REDACTED]]: Okay. We were in a double-wide trailer that
13 had been modified, a corridor down the middle, interview rooms left
14 and right. I think the interview rooms were about eight-by-ten. One
15 entryway in, door, no windows. Had a one-way glass, just a couple
16 chairs and a table.

17 Q [MR. MURPHY]: All right. And who was with you in the room?

18 A [MR. [REDACTED]]: There was two other people; another agent and
19 an interpreter.

20 Q [MR. MURPHY]: The interview was conducted in Arabic?

21 A [MR. [REDACTED]]: Yes, sir.

22

23

1 Q [MR. MURPHY]: Tell us a little bit about the translation
2 process whereby you could understand what was being said.

3 A [MR. [REDACTED]]: We would pose a question in English. The
4 translator would translate it to Mr. Hamdan; Mr. Hamdan would provide
5 an answer in Arabic, and then it would be translated back to us in
6 English.

7 Q [MR. MURPHY]: Did you provide any rights warnings to Mr.
8 Hamdan, such as Article 31 warnings or Miranda-type warnings?

9 A [MR. [REDACTED]]: No, we did not.

10 Q [MR. MURPHY]: Why was that?

11 A [MR. [REDACTED]]: Policy indicated that we didn't.

12 Q [MR. MURPHY]: At any time in these interviews, did Mr. Hamdan
13 complain to you that he was ever mistreated or abused by anyone?

14 A [MR. [REDACTED]]: No, he did not.

15 Q [MR. MURPHY]: Did anyone yell at him or threaten him while
16 you were interviewing him in the interview room?

17 A [MR. [REDACTED]]: No.

18 Q [MR. MURPHY]: Was a report prepared that summarized your
19 interview with the accused?

20 A [MR. [REDACTED]]: Yes, it was.

21 Q [MR. MURPHY]: And have you reviewed that report in
22 preparation for your testimony today?

23 A [MR. [REDACTED]]: Yes, I have.

1 Q [MR. MURPHY]: How would you describe the overall tone of the
2 interview with Salim Hamdan?

3 A [MR. [REDACTED]]: He seemed pretty confident, pretty cocky.

4 Q [MR. MURPHY]: You would use the word "cocky"?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. MURPHY]: What, if anything, of substance did he say to
7 you?

8 A [MR. [REDACTED]]: He pretty much told us that he was paid
9 directly by bin Laden. And we asked him about the financing of the
10 training camps, and he pretty much--well, we asked him about the
11 financing, and we also asked him how the trainees were paid. Were
12 they paid before, during, or after? And he told us that he didn't
13 know; he didn't ask questions, it was none of his business. He also
14 said it was a dumb question, because people coming to Afghanistan,
15 they'd have money, so, therefore, when they were captured, they'd
16 probably have money also. And he also told us that just because he
17 was bin Laden's driver, he didn't know everything.

18 Q [MR. MURPHY]: How cooperative was he with you?

19 A [MR. [REDACTED]]: In the cooperation part, he said that--he was
20 kind of hesitant at first, but a couple months prior to our
21 interview, he had been allowed to make a phone call. So that's the
22 reason he was really talking to investigators.

23

1 Q [MR. MURPHY]: And he said specifically the payment to him
2 came from bin Laden's hand to his hand.

3 A [MR. [REDACTED]]: Yes.

4 Q [MR. MURPHY]: Is that right?

5 A [MR. [REDACTED]]: Yes, sir.

6 Q [MR. MURPHY]: After he made these brief statements, what
7 happened?

8 A [MR. [REDACTED]]: After he made those statements, he had asked
9 about a photograph, also. He had said other detainees had original
10 photos, and he had only a copy. And he asked us why that was. We
11 didn't know. We told him we would check on that.

12 Q [MR. MURPHY]: All right. That was a personal photo?

13 A [MR. [REDACTED]]: Yes.

14 Q [MR. MURPHY]: That he was allowed to keep?

15 A [MR. [REDACTED]]: Yes, sir. Of his daughter.

16 Q [MR. MURPHY]: And it was a complaint that he had a copy
17 rather than an original?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. MURPHY]: Did anything else happen of significance in the
20 interview?

21 A [MR. [REDACTED]]: I believe that's pretty much it.

22

23

1 Q [MR. MURPHY]: How did it end? How did you wrap up and
2 conclude the interview?

3 A [MR. [REDACTED]]: The last thing was we told him we would check
4 on that photo.

5 Q [MR. MURPHY]: All right. Did you try and force him to speak
6 at all during this interview session----

7 A [MR. [REDACTED]]: No.

8 Q [MR. MURPHY]: ----against his will?

9 A [MR. [REDACTED]]: No, we didn't.

10 Q [MR. MURPHY]: When you were with CITF, you were a law
11 enforcement officer. Is that right?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. MURPHY]: You're aware of the facts of this particular
14 case involving validations of transporting surface-to-air missiles
15 and protecting Usama bin Laden while Usama bin Laden was carrying out
16 terrorist acts. You're aware of the facts in this case?

17 A [MR. [REDACTED]]: Yes, I am.

18 Q [MR. MURPHY]: In that regard? If you weren't in the unique
19 environment of an intelligence command, JTF, as a law enforcement
20 officer what would you do if you encountered Salim Hamdan in a
21 different setting?

22 A [MR. [REDACTED]]: It is kind of unique. If I had the authority
23 to, we would advise him of his rights.

1 Q [MR. MURPHY]: Would you arrest him?

2 A [MR. [REDACTED]]: Yes. Definitely detain him.

3 Q [MR. MURPHY]: Why would you do that?

4 A [MR. [REDACTED]]: Just because of that fact.

5 Q [MR. MURPHY]: Would you seek to have him charged with serious
6 offenses?

7 A [MR. [REDACTED]]: Yes.

8 Q [MR. MURPHY]: What kind of offenses?

9 A [MR. [REDACTED]]: At a minimum, conspiracy.

10 MJ [CAPT ALLRED]: Why are we going down this road, counsel?
11 I'm curious, this is kind of my lane. Isn't it?

12 CTC [MR. MURPHY]: Well, I hope I'm getting right to the point,
13 Your Honor. There's been a great deal of testimony, a great deal of
14 questions and testimony about the intelligence mission and how that
15 impacted criminal investigations. And I want to make it clear that
16 as all of these Federal agents who have Federal arrest powers were
17 encountering this, not constrained by intelligence operation, that
18 they would arrest Salim Hamdan. They would seek serious terrorist
19 charges.

20 MJ [CAPT ALLRED]: Why is that relevant?

21 CTC [MR. MURPHY]: Because the defense has gone to great lengths
22 to talk about how this is an intelligence mission and there was no
23 rights advisements. And I think it should be clear in its totality

1 that these offenses can be viewed as serious crimes.

2 MJ [CAPT ALLRED]: Well, that's for the members to decide.

3 CTC [MR. MURPHY]: Right. And I think the facts that the
4 witnesses are eliciting in this regard--I don't plan to go any
5 further--have some bearing on it.

6 MJ [CAPT ALLRED]: Okay. Move on.

7 CTC [MR. MURPHY]: And that brings me to the end, Your Honor. I
8 tender the witness.

9 MJ [CAPT ALLRED]: Very good.

10 CTC [MR. MURPHY]: Thank you.

11 **CROSS-EXAMINATION**

12 **Questions by the defense counsel:**

13 Q [MR. SWIFT]: Good morning. My name is Charlie Swift, and I
14 represent Mr. Hamdan.

15 CDC [MR. SWIFT]: Could I have Prosecution Exhibit 23, slide
16 number nine, brought out and published to all present?

17 MJ [CAPT ALLRED]: You may.

18 CDC [MR. SWIFT]: I'm looking for the financial committee. I
19 may have the wrong number. That's all right.

20 Thank you. I must have missed by one slide. I apologize.

21 **[END OF PAGE]**

22

23

1 Q [MR. SWIFT]: When you went to interview Mr. Hamdan in January
2 of 2003, it was to find out about financing the training camps. Is
3 that correct?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. SWIFT]: And that would have fallen under the finance
6 committee of al Qaeda. Is that correct?

7 A [MR. [REDACTED]]: I guess so.

8 Q [MR. SWIFT]: And you were seeking to find out how financing
9 worked inside al Qaeda. Is that correct?

10 A [MR. [REDACTED]]: Yes.

11 Q [MR. SWIFT]: And Mr. Hamdan really didn't have any idea. Did
12 he?

13 A [MR. [REDACTED]]: He said he didn't.

14 Q [MR. SWIFT]: He said that he was paid by bin Laden. Is that
15 correct?

16 A [MR. [REDACTED]]: Yes.

17 Q [MR. SWIFT]: He didn't say he was paid by the finance
18 committee. Did he?

19 A [MR. [REDACTED]]: No, he didn't.

20 Q [MR. SWIFT]: Did you attach any significance to the fact that
21 he was paid by bin Laden?

22 A [MR. [REDACTED]]: Just that he was directly paid by him. Yes.
23

1 Q [MR. SWIFT]: Did you talk to any senior members of al Qaeda
2 who might have had knowledge of the internal workings of al Qaeda's
3 financing?

4 A [MR. [REDACTED]]: No, I didn't.

5 Q [MR. SWIFT]: In learning how financing might be significant,
6 would it be important to talk to those people; don't you think?

7 A [MR. [REDACTED]]: Yes.

8 CDC [MR. SWIFT]: No further questions. Thank you.

9 MJ [CAPT ALLRED]: Thank you.

10 CTC [MR. MURPHY]: Nothing further, Your Honor. And the
11 government, unless directed otherwise, would have this witness
12 excused to leave the island.

13 MJ [CAPT ALLRED]: Very well. Thank you, sir, for your
14 testimony. You are excused as a witness.

15 CDC [MR. SWIFT]: We had this witness on our witness list for
16 exactly the purposes that I made. And we will release him, since he
17 was called in the government's case.

18 MJ [CAPT ALLRED]: Very good. You are released, Mr. [REDACTED].
19 Thank you for your testimony.

20 **[The witness was duly warned, permanently excused, and withdrew from**
21 **the courtroom.]**

22 CTC [MR. MURPHY]: Your Honor, we would call [REDACTED] as
23 our next witness.

1 MJ [CAPT ALLRED]: Bailiff, would you get [REDACTED], please.

2 CTC [MR. MURPHY]: Your Honor, our next witness is Special Agent
3 [REDACTED].

4 MJ [CAPT ALLRED]: Thank you.

5 CTC [MR. MURPHY]: I believe someone has left to get him.

6 MJ [CAPT ALLRED]: Yes, they have. I asked him to go get Agent
7 [REDACTED].

8
9 [REDACTED], JR., Special Agent, was called as a witness for the
10 government, was sworn, and testified as follows:

11 **DIRECT EXAMINATION**

12 **Questions by the trial counsel:**

13 Q [MR. MURPHY]: Could you state and spell your last name for
14 the record, please?

15 A [MR. [REDACTED]]: [REDACTED]

16 Q [MR. MURPHY]: And how are you employed?

17 A [MR. [REDACTED]]: I'm employed by the FBI.

18 Q [MR. MURPHY]: All right. And I think we should make apparent
19 right away, you are having difficulties with your voice. Is that
20 right?

21 A [MR. [REDACTED]]: It is.

22 WIT [MR. [REDACTED]]: I hope you don't mind if I have some cough
23 drops with me.

1 MJ [CAPT ALLRED]: No, not at all. Let's make sure you have a
2 fresh cup of water and something to sip from, if you need.

3 Q [MR. MURPHY]: Let me know if you need to stop if it gets too
4 difficult to speak. And I will go slowly.

5 Tell us about your law enforcement background, including
6 any special training that you received.

7 A [MR. [REDACTED]]: I have been employed by the Federal Bureau of
8 Investigation for almost 10-1/2 years now. I've received basic
9 training at Quantico, advanced counterterrorism training, as well as
10 training in law enforcement management.

11 Q [MR. MURPHY]: All right. And you occupy a supervisory
12 position now within the FBI. Is that right?

13 A [MR. [REDACTED]]: That's correct. I'm currently a supervisor in
14 the FBI.

15 Q [MR. MURPHY]: Did the FBI assign you to interview Salim
16 Hamdan?

17 A [MR. [REDACTED]]: The FBI did assign me to interview Mr. Hamdan.

18 Q [MR. MURPHY]: I'd like you to look around the courtroom
19 today, and see if you recognize him as the person that you have
20 interviewed. If you can, point to him and identify an article of
21 clothing that he is wearing.

22 A [MR. [REDACTED]]: Mr. Hamdan is sitting almost directly in front
23 of me, wearing the white head covering and the brown sports jacket.

1 CTC [MR. MURPHY]: Your Honor, may the record reflect that the
2 witness has properly identified the accused?

3 MJ [CAPT ALLRED]: Um-hmm.

4 Q [MR. MURPHY]: During what time period did you interview Salim
5 Hamdan?

6 A [MR. ████████]: I interviewed Mr. Hamdan from approximately
7 June 26, 2002 through July 9th of 2002.

8 Q [MR. MURPHY]: Where did you interview him?

9 A [MR. ████████]: I interviewed Mr. Hamdan here at Guantanamo
10 Bay.

11 Q [MR. MURPHY]: And, approximately, how many times did you
12 interview him?

13 A [MR. ████████]: I interviewed Mr. Hamdan approximately 12 to 13
14 times.

15 Q [MR. MURPHY]: Could you describe the room or rooms where
16 these interviews took place?

17 A [MR. ████████]: The rooms in which I interviewed Mr. Hamdan
18 were in a, I guess you would call it, a modular trailer. Within that
19 trailer there were several rooms. The rooms were approximately
20 eight-by-ten or eight-by-twelve feet. There was usually a one-way
21 mirror in the room, a climate control device, a folding table, and
22 two to three chairs in the room as well.

23

1 Q [MR. MURPHY]: And were there other people in the room with
2 you?

3 A [MR. [REDACTED]]: Yes, there were.

4 Q [MR. MURPHY]: Who were they?

5 A [MR. [REDACTED]]: Special Agent [REDACTED] and Special Agent
6 [REDACTED].

7 Q [MR. MURPHY]: And there was no need for a translator, because
8 the two of them both were speakers of Arabic. Is that right?

9 A [MR. [REDACTED]]: That's correct. Agent [REDACTED] and Agent
10 [REDACTED] are both native Arabic speakers.

11 Q [MR. MURPHY]: And you and Agent [REDACTED] were together when
12 Salim Hamdan provided extensive admissions that you are prepared to
13 testify about today. Is that right?

14 A [MR. [REDACTED]]: That is correct.

15 Q [MR. MURPHY]: You are also aware that Agent [REDACTED]
16 interviewed him, interviewed Salim Hamdan at times when you were not
17 present?

18 A [MR. [REDACTED]]: I am aware of that.

19 Q [MR. MURPHY]: You are aware of that?

20 A [MR. [REDACTED]]: Yes, I am.

21 Q [MR. MURPHY]: All right. Were you able to understand--you're
22 not an Arabic speaker. Correct?

23 A [MR. [REDACTED]]: I am not an Arabic speaker.

1 Q [MR. MURPHY]: Were you able to understand everything that was
2 happening during the interviews, what it was being said?

3 A [MR. [REDACTED]]: For the most part. During the interviews,
4 Agent [REDACTED] or Agent [REDACTED] would translate the interview for my
5 benefit, and then I would take the notes. If I needed clarification
6 or I had questions that I wanted to have asked, I would relay that to
7 either Special Agent [REDACTED] or Special Agent [REDACTED]. And that's
8 how the interviews would take place.

9 In addition to that, I've worked with both of these
10 individuals quite a bit. So we had a pretty good relationship going
11 prior to this.

12 Q [MR. MURPHY]: Were FBI form 302s prepared that summarized
13 these interviews?

14 A [MR. [REDACTED]]: Yes. One FD-302 was prepared.

15 Q [MR. MURPHY]: And, by summary, is it correct that these form
16 302s are not an exact transcript of what happened but are a summary
17 of the interview?

18 A [MR. [REDACTED]]: That would be correct. Not everything that's
19 discussed is placed into a 302. It's a summary of the pertinent
20 facts as we saw them that would be transcribed into the 302.

21 [END OF PAGE]

1 Q [MR. MURPHY]: During your interviews with the accused, was he
2 restrained?

3 A [MR. ██████]: Mr. Hamdan would come into the interview room
4 usually in shackles; and we would have the handcuffs removed and he
5 would have at least one leg iron, I believe, during most of the
6 interviews. I want to say that we had them all removed on one
7 occasion, but that may not be accurate, because I know we ended up
8 sitting on the floor at least one time together. So--but he may have
9 still had the leg restraint on.

10 Q [MR. MURPHY]: All right. I do want to ask you about the
11 seating arrangements, and some unusual seating arrangements at times.
12 Can you describe that for us?

13 A [MR. ██████]: For most of the time, Mr. Hamdan would sit on
14 one side of the table, Special Agent ██████ or ██████ would sit at
15 the end of the table, and then I would sit across from Mr. Hamdan.
16 But particularly Special Agent ██████--and we've done this in I think
17 other interviews as well--would like to sit on the floor with someone
18 that we were interviewing with if they felt comfortable doing that.
19 It wasn't necessarily the most comfortable for me, but it did enhance
20 the interview as we would go through the interview.

21 [END OF PAGE]

1 Q [MR. MURPHY]: All right. How close were you and the other
2 agents to Salim Hamdan during the interviews, physically?

3 A [MR. ██████]: Most of the time, it would be the width of the
4 table. But there were times where we got much closer, perhaps
5 touching the knee, shoulder to shoulder. Particularly when we sat on
6 the floor, that's how close we would get.

7 Q [MR. MURPHY]: How would you describe the tone of the
8 interviews?

9 A [MR. ██████]: When the interviews first began, Mr. Hamdan had
10 several concerns and we had to get through those. So he was somewhat
11 apprehensive of us. But then as the interviews progressed, we built
12 up a relationship, a rapport. It became much more conversational and
13 much more give and take between the agent and Mr. Hamdan.

14 Q [MR. MURPHY]: And you mentioned there was some concerns. I
15 want to make sure we have a full understanding of that. Can you help
16 us understand what you mean by that?

17 A [MR. ██████]: When we first came to interview Mr. Hamdan, he
18 was concerned that he had not had a chance to speak with anyone in
19 his family. He was concerned that they would think he was dead; that
20 no one knew that he was alive. He was very concerned about that and
21 how that would weigh upon his family. So we had to work through that
22 and establish that we could perhaps alleviate those concerns before I
23 think we could move on.

1 Q [MR. MURPHY]: And were you able to actually get a phone call
2 made as part of those efforts?

3 A [MR. ██████]: That was one of the things we discussed with
4 Mr. Hamdan, was that, you know--and we understood that, that that
5 would be a legitimate concern of Mr. Hamdan, you know, having been
6 out of touch now for over six months.

7 So what Special Agent ██████ and I did was go to the powers
8 that be asking if we could allow Mr. Hamdan to make a phone call
9 home. That was granted. A satellite phone was brought into the
10 interview trailer. We took Mr. Hamdan outside. Mr. Hamdan provided
11 a telephone number, Special Agent ██████ dialed the phone number,
12 verified that it was his wife, and Mr. Hamdan had a five- to
13 ten-minute conversation with his wife.

14 Q [MR. MURPHY]: And that was something that you felt needed to
15 be done and made certain it happened?

16 A [MR. ██████]: Yes. Both Agent ██████ and I thought that that
17 seemed to be the right thing to do. We didn't seem to think that he
18 needed to be out of touch--or, at least he should have had some way to
19 tell his family that he was alive.

20 Q [MR. MURPHY]: All right. During any of these interviews, did
21 you or anyone else in the interview room ever threaten him in any
22 manner or yell at him?

23 A [MR. ██████]: No.

1 Q [MR. MURPHY]: Did you provide him with food and water or food
2 and drink during the interviews?

3 A [MR. ██████]: During several of the interviews, if--I would
4 say more than 80 percent of the interviews that we conducted, we
5 provided food, drink; McDonald's, I think pistachios, Subway, pizza.
6 Whatever I was going to be eating, I would bring that in as well.

7 I recall on one occasion, Mr. Hamdan had come in. He liked
8 the McDonald's fries, so we brought fries in. But there was a delay
9 one time in getting Mr. Hamdan into the interview room, and the
10 fries--I don't know if any of you have had McDonald's fries, but
11 they're good when they're hot but not so good cold. And Mr. Hamdan
12 even appreciated that, that McDonald's fries are not good cold.

13 Q [MR. MURPHY]: All right. Did you give him opportunities to
14 pray during your interviews with him?

15 A [MR. ██████]: Yes. We offered Mr. Hamdan the opportunity to
16 pray, and he took us up on that offer on several occasions.

17 Q [MR. MURPHY]: Did something happen during your series of
18 interviews that was unhelpful that you managed to correct?

19 A [MR. ██████]: I don't know that I managed to correct it. But
20 on, I believe it was, July 8th, we came in to interview Mr. Hamdan,
21 and he was already in the room or he was brought in shortly
22 thereafter, extremely upset. When we asked him what was wrong, he
23 explained that he had been placed into isolation, and he was looking

1 at us like we had something to do with it. I had no knowledge of
2 this prior to going in there. And he said, "I don't want to talk."
3 We said, "Fine."

4 We immediately went out, and--very upset that this had
5 happened to Mr. Hamdan, and spoke with the military officials that
6 were in charge, expressed my extreme displeasure with what had
7 happened, and was told, basically, that they run the show there, and
8 that was that. However, the situation was corrected.

9 Now, I don't know if it was the result of what I did
10 directly, but that situation was corrected and he was taken out of
11 isolation. And I will say that the movement of Mr. Hamdan into
12 isolation was very detrimental to the relationship that we had with
13 Mr. Hamdan.

14 Q [MR. MURPHY]: It was nothing that you or any other agent
15 asked for or coordinated to be a part of the interview process in any
16 way?

17 A [MR. [REDACTED]]: Absolutely not.

18 Q [MR. MURPHY]: And, if anything, it was unhelpful for the
19 accused?

20 A [MR. [REDACTED]]: It was extremely unhelpful.

21 Q [MR. MURPHY]: And it was changed after you spoke up on the
22 issue. Is that right?

23 A [MR. [REDACTED]]: It was changed.

1 Q [MR. MURPHY]: And it was your understanding he was in a cell
2 by himself?

3 A [MR. [REDACTED]]: Yes. That's correct.

4 Q [MR. MURPHY]: All right. No other allegations that you heard
5 about abuse or mistreatment of any kind?

6 A [MR. [REDACTED]]: No.

7 Q [MR. MURPHY]: All right. During your interviews, did you
8 provide any rights warnings to Salim Hamdan, such as Article 31
9 warnings under the UCMJ or Miranda-type warnings?

10 A [MR. [REDACTED]]: We did not.

11 Q [MR. MURPHY]: And why was that?

12 A [MR. [REDACTED]]: That was the policy that we were operating
13 under at the time that we conducted the interviews.

14 Q [MR. MURPHY]: All right. He did agree to talk to you and
15 provide what we will call substantive statements or admissions. Is
16 that right?

17 A [MR. [REDACTED]]: He did.

18 Q [MR. MURPHY]: During your interviews with the accused, did he
19 talk to you about something called jihad?

20 A [MR. [REDACTED]]: He did.

21 Q [MR. MURPHY]: What, if anything, did he say about jihad?

22 A [MR. [REDACTED]]: Mr. Hamdan spoke about jihad on three
23 occasions. The first occasion would be what brought him into

1 Afghanistan. When he was in Yemen--and this would have been around
2 1996--he met an individual by the name of Mohammed who spoke to him
3 about the jihad that was taking place in Tajikistan. He convinced
4 Mr. Hamdan to go to Tajikistan to practice jihad. He traveled--Mr.
5 Hamdan and Mohammed traveled to Pakistan and up through Afghanistan
6 in an attempt to get into Tajikistan to conduct jihad; however, they
7 were unsuccessful in that attempt, and never actually made it into
8 Tajikistan to conduct jihad.

9 The second occasion would have been UBL's calling for--in
10 his fatwa, calling for jihad against the Northern Alliance. And,
11 finally, he talked about Zawahiri always talking about jihad against
12 the Americans and--for three reasons, I believe. It was because the
13 U.S. was so engaged in Middle Eastern affairs and we needed to stop
14 that; two was American arrogance; and thirdly was U.S. support of
15 Israel.

16 Q [MR. MURPHY]: All right. Did he talk to you specifically
17 about Usama bin Laden?

18 A [MR. ██████████]: He did.

19 Q [MR. MURPHY]: What did he say?

20 A [MR. ██████████]: He said a lot about Usama bin Laden. He first
21 met Usama bin Laden after his failed attempt to get into Tajikistan
22 to raise jihad. When they came back--and there was a group of them.
23 It was not just Mohammed and Mr. Hamdan; there were several Arabs who

1 attended this, and Mr. Hamdan described them as the northern group.
2 They came back into Afghanistan. And while in Kabul, word came down
3 that Usama bin Laden would like to meet the group. But they missed
4 Usama bin Laden by a few days. Eventually, they followed bin Laden
5 down to Kandahar to where they had their first meeting between Usama
6 bin Laden and Mr. Hamdan.

7 Q [MR. MURPHY]: Just to focus on the time frame for the first
8 contact between UBL and Hamdan was, when?

9 A [MR. ██████████]: It was after Eid, 1996.

10 Q [MR. MURPHY]: At this time after they met--UBL and Hamdan--
11 what, if anything, did UBL ask Mr. Hamdan to do?

12 A [MR. ██████████]: On the first meeting, Usama bin Laden commented
13 right away to Mr. Hamdan that he obviously was from Yemen and from
14 the Hadramout region; and Usama bin Laden asked Mr. Hamdan if he
15 would like to work for him and become a driver for Usama bin Laden.

16 Q [MR. MURPHY]: I would like to direct your attention to the
17 year 1998. Did Mr. Hamdan admit to doing several things of
18 significance during that year?

19 A [MR. ██████████]: He did.

20 Q [MR. MURPHY]: Why don't we first identify what they are, and
21 then let's go into them in some detail?

22 A [MR. ██████████]: Okay. The two incidents in question would be
23 the 1998 news conference, and the movement out of Kandahar just prior

1 to and after the attacks on the U.S. embassies in Nairobi
2 and Tanzania.

3 Q [MR. MURPHY]: All right. Let's take them one by one. Let's
4 start first with the news conference.

5 A [MR. [REDACTED]]: Sometime in 1998, Saif Al-Adel approached Mr.
6 Hamdan, telling him to get the cars ready, that there was going to be
7 a movement. There was going to be--and it turned out to be a very
8 large movement. I think previously I think I said six cars, but
9 there were really nine cars involved in the movement. Three cars
10 would provide front security, three cars rear security, and then the
11 car that bin Laden was in, and then two additional cars would be
12 leaving and going to a training camp where a news conference would
13 take place.

14 Q [MR. MURPHY]: All right. That's the first event in 1998.
15 Did he describe anything else about that news conference?

16 A [MR. [REDACTED]]: Everyone was there. All of the bodyguards,
17 Saif Al-Adel, Abu Hafs was there. I believe Muhammed Atef. Yeah.
18 It was a huge movement.

19 Q [MR. MURPHY]: Okay. Now let's turn to the second one that
20 you described in 1998 and what happened immediately prior to the 1998
21 East African embassy bombings. Are you able to describe this by
22 utilizing a map that you helped prepare?

23 A [MR. [REDACTED]]: I am.

1 CTC [MR. MURPHY]: Your Honor, I need to get the next government
2 number in order.

3 Your Honor, I would ask that this be marked as 120, and shown
4 first to the Military Judge and to the witness.

5 MJ [CAPT ALLRED]: Prosecution Exhibit 120?

6 CTC [MR. MURPHY]: Your Honor, I will lay some brief foundation
7 before I offer it.

8 Q [MR. MURPHY]: Do you recognize Government Exhibit 120?

9 A [MR. ██████████]: I do.

10 Q [MR. MURPHY]: And what is it, generally?

11 A [MR. ██████████]: This is a map that was prepared based on what
12 Mr. Hamdan had told us that happened just prior to and after the
13 bombings of the U.S. embassy.

14 Q [MR. MURPHY]: And did you help in the preparation of this
15 document?

16 A [MR. ██████████]: I did.

17 CTC [MR. MURPHY]: Your Honor, I would offer Government Exhibit
18 120 into evidence at this time.

19 CDC [MR. SCHNEIDER]: No objection, Your Honor.

20 MJ [CAPT ALLRED]: Very well. Without objection.

21 **[Prosecution Exhibit 120.]**

22 CTC [MR. MURPHY]: Your Honor, I would ask that it be published
23 to the members and to everybody.

1 MJ [CAPT ALLRED]: Please do.

2 Q [MR. MURPHY]: All right. We're looking at Government Exhibit
3 120. Can you use this exhibit to help explain to the members what
4 Mr. Hamdan told you about his actions prior to and following the 1998
5 East Africa U.S. embassy bombings?

6 A [MR. ████████]: I can.

7 Q [MR. MURPHY]: Please do so.

8 A [MR. ████████]: Just prior to the East Africa bombings, bin
9 Laden was in Kandahar. That's where he had his compound. So just a
10 short time prior to the embassy bombings, bin Laden tells everyone
11 that they're going to be leaving Kandahar; it's going to be a low-key
12 movement. Mr. Hamdan described this as the first time that bin Laden
13 would be going face to face with the United States or against the
14 United States, and he was unsure of what the U.S. reaction would be.

15 Q [MR. MURPHY]: These are his words. Right?

16 A [MR. ████████]: Yes.

17 Q [MR. MURPHY]: Please continue.

18 A [MR. ████████]: So they leave the compound, and they spend--and
19 this is just the day before the embassy bombings, and they go into
20 Kandahar. So the first night after the embassy attacks, they're
21 there. And then they leave Kandahar entirely and they go up to
22 Kabul, where they spend about 10 days. After spending 10 days in
23 Kabul, the entire group heads back to Kandahar.

1 Q [MR. MURPHY]: All right. Did Mr. Hamdan tell you what his
2 understanding was of what was happening and what was about to happen
3 during these movements?

4 A [MR. ██████████]: Well, during these movements, again, they were
5 unsure of what the U.S. response was going to be, so they were going
6 to get out of Kandahar.

7 Q [MR. MURPHY]: Did he express an understanding of what al
8 Qaeda was going to be doing?

9 A [MR. ██████████]: Al Qaeda--well, it was an operation that was
10 going to take place. He didn't know at the time what the operation
11 was, but he did know that an operation was about to take place.

12 Q [MR. MURPHY]: And did you come to an understanding of what
13 Mr. Hamdan thought an operation meant?

14 A [MR. ██████████]: An operation meant some sort of terrorist
15 attack outside of Afghanistan.

16 Q [MR. MURPHY]: All right.

17 CTC [MR. MURPHY]: We can fade, Your Honor, this screen blank.

18 MJ [CAPT ALLRED]: Very well.

19 Q [MR. MURPHY]: And now I want to ask you and turn to the year
20 2000. Did Salim Hamdan discuss with you the bombing of the USS COLE?

21 A [MR. ██████████]: He did.

22

23

1 Q [MR. MURPHY]: What, if anything, did he tell you about this
2 terrorist attack?

3 A [MR. ██████████]: In October of 2000, Mr. Hamdan was in Yemen
4 when the COLE was attacked. What had been reported in Yemen and what
5 he thought at the time was that this was--had been perpetrated by the
6 Israelis. He also believed, though, that due to his association,
7 close association with bin Laden, he might be picked up, so he made
8 arrangements to leave Yemen and go back to Afghanistan.

9 In Afghanistan, he had conversations with an individual we
10 knew as Nashiri, Mullah Bilal, and several of the things that Mr.
11 Hamdan had said that Nashiri had described to him fit in with what we
12 as the investigators on the USS COLE knew had occurred; such as
13 Nashiri getting stopped by Yemeni police officers, the boat. The
14 first attack that was to take place, the boat actually sank, was
15 swamped. And it came to the point that Mr. Hamdan realized that
16 this--that the attack on the USS COLE was not an Israeli attack but
17 it had been done by bin Laden, because Nashiri was bragging so much
18 about it. And he said that Nashiri was a soldier of Usama bin Laden,
19 and he would only be following orders from Usama bin Laden.

20 Q [MR. MURPHY]: All right. Now let's turn specifically to
21 September 11th, 2001, and the terrorist attack in New York, at the
22 Pentagon, and the crash in Pennsylvania.

23 CTC [MR. MURPHY]: I'd like to have marked the next exhibit

1 Government Exhibit 121, and show it at this time to the Military
2 Judge and the witness.

3 MJ [CAPT ALLRED]: Very well.

4 CTC [MR. MURPHY]: I will lay a brief foundation before I offer
5 it.

6 MJ [CAPT ALLRED]: Well, let me just ask the defense. I think
7 we've admitted this as an appellate exhibit already.

8 CDC [MR. SCHNEIDER]: There is no objection to this. I thought
9 it was going to be a map of New York. This is fine.

10 MJ [CAPT ALLRED]: No objection, then, to prosecution Exhibit
11 121.

12 **[Prosecution Exhibit 121.]**

13 CTC [MR. MURPHY]: Your Honor, I would ask that it be published
14 to the members and published to all.

15 MJ [CAPT ALLRED]: You may.

16 Q [MR. MURPHY]: Special Agent [REDACTED], do you recognize what's
17 marked as Government Exhibit 121?

18 A [MR. [REDACTED]]: I do.

19 Q [MR. MURPHY]: What is it?

20 A [MR. [REDACTED]]: This is a map of Afghanistan. And this----

21 Q [MR. MURPHY]: Is there a spot appearing on your screen?

22 A [MR. [REDACTED]]: Yes, there is.

23 CTC [MR. MURPHY]: Your Honor, I know how to remove that. If

1 that's appearing for anyone else, Your Honor, the first black button
2 on the left will remove it.

3 MJ [CAPT ALLRED]: How do you remove the little green arrow?

4 CTC [MR. MURPHY]: I think I may be able to remove it here.

5 Sorry.

6 MJ [CAPT ALLRED]: Okay.

7 A [MR. ██████████]: This is a map of Afghanistan. And this depicts
8 the movements of the Usama bin Laden convoy just prior to and after
9 the attacks on 9/11.

10 Q [MR. MURPHY]: All right. And you assisted in the preparation
11 of this document. Is that right?

12 A [MR. ██████████]: I did.

13 Q [MR. MURPHY]: Can you use Government 121 to help explain what
14 Salim Hamdan told you about the events prior to, during, and after
15 9/11?

16 A [MR. ██████████]: Yes, I can.

17 Q [MR. MURPHY]: Please do that carefully for us, referencing
18 only the details you have there.

19 A [MR. ██████████]: Thank you.

20 Approximately seven to ten days prior to 9/11, Usama bin
21 Laden tells everyone in the compound, "We're evacuating. An
22 operation is about to take place."

23 With that, Mr. Hamdan and Usama bin Laden and his son

1 Uthman are in the car. It's about--I believe it's a three-car
2 convoy. This is going to be pretty low key. They immediately
3 travel, I think it was, to Kabul, where they stay at Muhammed Salah's
4 house. From there, they--again in Kabul, they move on to a
5 guesthouse. And then, this is around two days prior to the attacks,
6 they stay there until just after the attacks. And then they move on
7 to Lahore, which is described as a military camp. It has a lot of
8 tunnels, a lot of structures where they can basically hide, and they
9 spent about a week in Lahore. And then they go--from there, they
10 leave and they travel to the Star of Jihad camp, and they're at UBL's
11 house. They spent another week there. Then they travel back to
12 Kabul where they spend another two to three days. Then they head
13 down to the coast area where they spend only two to three days. Then
14 they head back to Kabul the day or two they're spending there. And
15 then they head back to Kandahar for another day or two.

16 Q [MR. MURPHY]: All right. And did Salim Hamdan indicate to
17 you that, before all of this movement that he specifically knew that
18 an operation was about to unfold?

19 A [MR. ████████]: Yes. Bin Laden told him that an operation was
20 about to take place and they needed to evacuate the compound.

21 Q [MR. MURPHY]: This accused heard that directly from UBL. Is
22 that right?

23 CTC [MR. SCHNEIDER]: Objection. Cumulative.

1 MJ [CAPT ALLRED]: Sustained.

2 Q [MR. MURPHY]: At any time after the East Africa embassy
3 bombings, did Salim Hamdan tell you that he tried to leave al Qaeda
4 and leave UBL and abandon his work for him?

5 A [MR. ██████████]: He never said that he tried to leave al Qaeda
6 because he never admitted to us that he had actually joined al Qaeda.
7 He did say that he tried his hand at farming for a short period of
8 time; however, he hurt his leg and he came back to bin Laden.

9 Q [MR. MURPHY]: Did you ever hear he tried to leave bin Laden
10 and disassociate himself from him after the COLE incident?

11 A [MR. ██████████]: No.

12 Q [MR. MURPHY]: And did you ever hear from him that he tried to
13 leave bin Laden and disassociate himself from him after the 9/11
14 attack?

15 A [MR. ██████████]: Well, he did leave bin Laden in Kandahar. But
16 that was--what he explained to us, was to take his wife out of
17 Kandahar but then he was coming back.

18 Q [MR. MURPHY]: Is that for the purpose of abandoning his
19 support of UBL?

20 A [MR. ██████████]: No.

21 Q [MR. MURPHY]: Or was it something else?

22 A [MR. ██████████]: That--because he claimed that his wife was
23 sick, and bin Laden actually told him to take his wife out.

1 Q [MR. MURPHY]: All right. Did Salim Hamdan report to you what
2 he heard UBL say about the attacks of 9/11?

3 A [MR. ██████████]: He did.

4 Q [MR. MURPHY]: What did he say?

5 A [MR. ██████████]: I believe this was in Lahore. This would have
6 been anywhere from two to I think ten days after the attack. Mr.
7 Hamdan overheard bin Laden talking about the attacks on 9/11
8 particularly, and bin Laden had said that he expected 1,000 to 1,500
9 to be dead. But when the reports came in that the casualties were
10 much larger than that, bin Laden was very pleased.

11 Q [MR. MURPHY]: Did Salim Hamdan talk to you about Dr. Ayman
12 Zawahiri?

13 A [MR. ██████████]: Dr. Zawahiri? He did.

14 Q [MR. MURPHY]: What did he say?

15 A [MR. ██████████]: Dr. Zawahiri. Mr. Hamdan first met Dr.
16 Zawahiri in 1998, I believe, at the press conference. Zawahiri--Dr.
17 Zawahiri was associated with EIJ. Dr. Zawahiri was also there at the
18 merger, according to Mr. Hamdan, of al Qaeda and EIJ when they formed
19 the base of Islamic Jihad.

20 Dr. Zawahiri was a doctor, although he really didn't act in
21 that capacity for the group; however, if some of the brothers had
22 medical concerns or issues, they could ask that of Dr. Zawahiri. Dr.
23 Zawahiri would interface with bin Laden's doctor on a kidney issue.

1 And I think I spoke earlier about Dr. Zawahiri discussing jihad and
2 what needed to be done about the American arrogance, the interference
3 in Middle Eastern affairs, and support for--the U.S. support for
4 Israel.

5 Q [MR. MURPHY]: All right. Let me ask you some questions about
6 fatwas. But before I do, help define the term for us. What's your
7 understanding of the Arabic word "fatwa"?

8 A [MR. ██████████]: It's a religiously approved edict allowing one
9 to engage in an activity.

10 Q [MR. MURPHY]: All right. Did the accused talk about fatwas
11 that he was personally aware of?

12 A [MR. ██████████]: He did.

13 Q [MR. MURPHY]: What did he say?

14 A [MR. ██████████]: He was aware of two fatwas. The first fatwa
15 was bin Laden's fatwa against the Northern Alliance, which Mr. Hamdan
16 explained was at--excuse me. Prior to Usama bin Laden's fatwa
17 against the Northern Alliance, there weren't that many Arabs fighting
18 against the Northern Alliance. But, however, after bin Laden's call,
19 Arabs were coming from all over to join that. Mr. Hamdan explained
20 that he had personally seen bin Laden issue the fatwa, and it was
21 posted in the mosques--in the mosque and several of the guesthouses.
22 Mr. Hamdan also stated that he had heard of the fatwa issued by bin
23 Laden against the United States, but had never actually personally

1 seen it.

2 Q [MR. MURPHY]: All right. Are you aware of the dates of these
3 fatwas?

4 A [MR. ██████]: The one against the Northern Alliance, I'm not.
5 The fatwa that was called, I think it was--it was 1998.

6 Q [MR. MURPHY]: All right. The second one that you referred
7 to; what, if anything, did Salim Hamdan tell you about standard
8 security measures that he personally used and observed when he was
9 driving Usama bin Laden?

10 A [MR. ██████]: If and when they were driving Usama bin Laden,
11 the convoy was to be low key. They would not use--like with the
12 Taliban, what some of the Taliban leaders would use would be the big
13 Land Cruisers, that sort of thing. Most of the vehicles they had in
14 the convoy were smaller vehicles so as to not draw attention. The
15 number of vehicles in the convoy would typically depend upon the
16 length of the journey, but it was never less than three vehicles.

17 The windows would be tinted. The drivers could stay in
18 touch with one another using a radio. The bodyguards, drivers would
19 all have Kalashnikov rifles. The trail vehicle would typically
20 have--or would always have RBPGs to come up in support just in case
21 the convoy was attacked, although Mr. Hamdan stated that he had never
22 heard of a UBL convoy ever being attacked; and, that they would at
23 times employ a leap-frogging type of movement as they drove through

1 Afghanistan. One car would pull forward, check and see, then the
2 next car would move forward, always moving forward in that type of
3 security arrangement.

4 Q [MR. MURPHY]: Did the accused admit to you attending lectures
5 delivered by Usama bin Laden?

6 A [MR. ██████████]: He did.

7 Q [MR. MURPHY]: What did he say about those lectures?

8 A [MR. ██████████]: Mr. Hamdan stated that the lectures by Usama
9 bin Laden were typically the same thing over and over again: That it
10 was every Muslim's duty to expel the infidels from the Middle East.
11 He spoke about martyrdom missions, those sort of things. It was
12 typically about how the West was wrong, and it was every Muslim's
13 duty to engage in activities against them. So much so that Mr.
14 Hamdan explained that he pretty much got tired of hearing the same
15 message over and over again, and would tune him out.

16 Q [MR. MURPHY]: Were the accused's knowledge of fatwas, UBL's
17 driving security measures, and UBL's anti-Western lectures all things
18 that Hamdan knew before the events of 9/11?

19 A [MR. ██████████]: Yes.

20 CTC [MR. MURPHY]: Your Honor, we tender the witness.

21 MJ [CAPT ALLRED]: Thank you, sir. I'm hearing some electricity
22 that says it's time for a break.

23 CDC [MR. SWIFT]: I need one, sir. I will be honest, I was

1 asking for it. Not for the witness. I just need a break.

2 MJ [CAPT ALLRED]: Do you want to just step out and take a solo
3 break, or would other people like a break? How long do you expect
4 your cross-examination to be?

5 CDC [MR. SCHNEIDER]: I expect it to be just a wee bit longer
6 than the direct.

7 MJ [CAPT ALLRED]: Okay. Why don't we all take a break then?
8 We will wait until the members step out.

9 **[Members withdrew from the courtroom.]**

10 MJ [CAPT ALLRED]: Court is in recess.

11 **[The military commission recessed at 1053, 25 July 2008.]**

12 **[The military commission was called to order at 1113, 25 July 2008.**
13 **All parties present when the commission recessed were once again**
14 **present.]**

15 MJ [CAPT ALLRED]: Please be seated. Court is called to order.

16 **CROSS-EXAMINATION**

17 **Questions by the defense counsel:**

18 Q [MR. SCHNEIDER]: Good morning, Agent [REDACTED]

19 A [MR. [REDACTED]]: Good morning, Mr. Schneider.

20 Q [MR. SCHNEIDER]: Your reputation precedes you. Did you hear
21 what [REDACTED] said about you?

22 A [MR. [REDACTED]]: I'm somewhat embarrassed by that. I did hear.

23

1 Q [MR. SCHNEIDER]: And your relationship with former Agent
2 [REDACTED] is a professional one. Right?

3 A [MR. [REDACTED]]: It's more than that. We're very good friends.

4 Q [MR. SCHNEIDER]: But you're not, for instance, childhood
5 friends or related by blood or marriage. You met each other in the
6 profession. Right?

7 A [MR. [REDACTED]]: That is correct.

8 Q [MR. SCHNEIDER]: You've worked closely with him on many
9 cases?

10 A [MR. [REDACTED]]: I don't know about many. But they were----

11 Q [MR. SCHNEIDER]: Important cases?

12 A [MR. [REDACTED]]: ----few, but important, cases.

13 Q [MR. SCHNEIDER]: You and he traveled together during
14 investigations?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. SCHNEIDER]: Were you in Kabul, Afghanistan with him at
17 some point?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. SCHNEIDER]: Do you remember approximately when?

20 A [MR. [REDACTED]]: 2003 or 2004, maybe.

21 Q [MR. SCHNEIDER]: Okay. Do you remember--I would like to show
22 you a photograph. I don't intend to introduce this, just to refresh
23 your recollection. And I don't want to make the photograph part of

1 the record.

2 CDC [MR. SCHNEIDER]: If I could have the ELMO. This is not
3 unflattering.

4 A [MR. [REDACTED]]: I know what photo it is.

5 Q [MR. SCHNEIDER]: Okay. A photo you and Mr. [REDACTED] in Kabul
6 going through one of the former residences, guesthouses, or other
7 locations of Usama bin Laden. Right?

8 A [MR. [REDACTED]]: Yes.

9 Q [MR. SCHNEIDER]: In 2003, after you--you or others had been
10 provided information about Mr. Hamdan. Right?

11 A [MR. [REDACTED]]: Yes.

12 Q [MR. SCHNEIDER]: You've been involved in investigating
13 matters concerning terrorist activities for much of your career.
14 Correct?

15 A [MR. [REDACTED]]: That is correct.

16 Q [MR. SCHNEIDER]: And you have been involved for how many
17 years in that type of stuff? Just approximately. There is no
18 specific. How many years? Ten?

19 A [MR. [REDACTED]]: Ten years.

20 [END OF PAGE]

21

22

23

1 Q [MR. SCHNEIDER]: You worked in the local office in New York
2 City, which was the office of origin which, under FBI policy, sort of
3 keeps the file once an investigation is over. Correct? You did work
4 there; you don't now?

5 A [MR. [REDACTED]]: For which? I don't work in New York now. But
6 for which case?

7 Q [MR. SCHNEIDER]: The World Trade Center case.

8 A [MR. [REDACTED]]: The World Trade Center case, COLE, and the
9 Africa bombings.

10 Q [MR. SCHNEIDER]: In fact, the World Trade Center case, from
11 not only 2001, the 9/11 case, but that file is kept in New York City
12 based on the 1993 acts of Ramzi Yousef. Right? If you know.

13 A [MR. [REDACTED]]: I think there is some debate about who actually
14 controls the 9/11 case, because I think most of the agents that were
15 assigned actually moved and the case moved down to headquarters. It
16 may be back in New York now, though. So it shifted.

17 Q [MR. SCHNEIDER]: I'm going to ask you yes or no questions
18 sometimes, in part, to try to save your voice.

19 A [MR. [REDACTED]]: Thank you.

20 Q [MR. SCHNEIDER]: Have you had any activity over the last few
21 days that aggravated the losing your voice?

22 A [MR. [REDACTED]]: Probably coming in and out of air conditioning
23 from the heat.

1 Q [MR. SCHNEIDER]: Sure. Any prep sessions in the last week or
2 so?

3 A [MR. [REDACTED]]: Prior to the jurisdictional hearing or the
4 suppression hearings, we did.

5 Q [MR. SCHNEIDER]: Once you got here.

6 A [MR. [REDACTED]]: Right.

7 Q [MR. SCHNEIDER]: Okay. Just tell us briefly--nothing wrong
8 with that. Just tell us briefly, when did those occur and how long
9 did they take and who was present?

10 A [MR. [REDACTED]]: I probably had once--I had one session with the
11 prosecutor. We went over--no, let me take that back. Two sessions.
12 One was for the suppression hearings, and then one was prior to the
13 actual trial starting. We went over the direct questions, most of
14 them; some of them came as a surprise, and then potential cross
15 questions.

16 Q [MR. SCHNEIDER]: Questions I might ask?

17 A [MR. [REDACTED]]: That is correct.

18 Q [MR. SCHNEIDER]: When you went over the direct, isn't it true
19 that not only did you hear the questions you might be asked, but you
20 allowed others to hear the answers you might give? Fair enough?

21 A [MR. [REDACTED]]: Mr. Murphy.

22 Q [MR. SCHNEIDER]: I was going to ask you who, next.

23 A [MR. [REDACTED]]: Oh. Mr. Murphy, the prosecutor.

1 Q [MR. SCHNEIDER]: And did you have the opportunity
2 occasionally to a little give and take on whether the answer was
3 responsive or appropriate or whether it could be improved?

4 A [MR. [REDACTED]]: I don't know about improved.

5 Q [MR. SCHNEIDER]: Adjusted?

6 A [MR. [REDACTED]]: I wouldn't say adjusted, either. But he'd say,
7 if you could expand on this, you can do so here.

8 Q [MR. SCHNEIDER]: Areas which you might choose to emphasize?
9 Elaborate?

10 A [MR. [REDACTED]]: Elaborate.

11 Q [MR. SCHNEIDER]: And then, on the other side of that coin,
12 did you talk at all, give any thought before you got here today on
13 areas that you might want to deemphasize or not elaborate or not even
14 raise?

15 A [MR. [REDACTED]]: No.

16 Q [MR. SCHNEIDER]: And you're under oath. You know that.

17 A [MR. [REDACTED]]: Yes.

18 Q [MR. SCHNEIDER]: And I'm really curious about what you
19 expected to hear on cross, you know that, too. But I'm not going to
20 take the time to go over what you were told I might ask.

21 Okay. The 9/11 Commission Report, ever seen it, heard of it?

22 A [MR. [REDACTED]]: Yes, I have.

23

1 Q [MR. SCHNEIDER]: Have you read it?

2 A [MR. ██████]: I haven't read it.

3 Q [MR. SCHNEIDER]: Have not. Okay. Do you have any
4 understanding as to how extensive the investigation was that resulted
5 in the report that was issued?

6 A [MR. ██████]: Yes. Very extensive.

7 Q [MR. SCHNEIDER]: Lots of witnesses?

8 A [MR. ██████]: A lot of witnesses.

9 Q [MR. SCHNEIDER]: Maybe 160?

10 A [MR. ██████]: I would be surprised if it was that low.

11 Q [MR. SCHNEIDER]: If it was that low? Okay.

12 A [MR. ██████]: I thought there would be more than that.

13 Q [MR. SCHNEIDER]: All right. And maybe 1,200 interviews in
14 ten countries. Does that sound about right?

15 A [MR. ██████]: I would imagine that.

16 Q [MR. SCHNEIDER]: 2.5 million pages?

17 A [MR. ██████]: I can see that as well.

18 Q [MR. SCHNEIDER]: No mention of Hamdan?

19 A [MR. ██████]: I haven't read the report, so I will take your
20 word for that.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: Did Mr. Hamdan ever say anything to you or
2 to anyone else, as far as you know, that he knew the destination of a
3 fourth plane on September 11, 2001, before September 11, 2001?

4 A [MR. ██████]: No, he did not.

5 Q [MR. SCHNEIDER]: A third plane?

6 A [MR. ██████]: No, he did not.

7 Q [MR. SCHNEIDER]: A second plane?

8 A [MR. ██████]: No, he did not.

9 Q [MR. SCHNEIDER]: A first plane?

10 A [MR. ██████]: No, he didn't.

11 Q [MR. SCHNEIDER]: With regard to the embassy bombings, did he
12 tell you or anyone else, as far as you know, that he knew that there
13 was an operation designed to kill people before he got here?

14 A [MR. ██████]: He didn't say to kill people. He would say
15 that he knew of an operation, which was, we took, as in discussions,
16 that it was a terrorist attack.

17 Q [MR. SCHNEIDER]: Which you took in conversations to be a
18 terrorist attack?

19 A [MR. ██████]: Right.

20 Q [MR. SCHNEIDER]: What was his word as translated to you?

21 A [MR. ██████]: The outside activities. So it would be outside
22 of Afghanistan.

23

1 Q [MR. SCHNEIDER]: Outside activities?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. SCHNEIDER]: Did the phrase "outside activities" ring a
4 bell when you first heard that from Mr. Hamdan?

5 A [MR. [REDACTED]]: It did.

6 Q [MR. SCHNEIDER]: Because you knew from your extensive
7 investigation, even before meeting him, that terrorist acts by these
8 people were conducted by the outside operations group. Right?

9 A [MR. [REDACTED]]: There were two groups, really, that from
10 the--our investigation that seemed to control those activities. The
11 outside activities group as well as the media and propaganda group,
12 both of those groups seemed to be the ones that would have the most,
13 I guess, command and control over the activities that would take
14 place outside of Afghanistan.

15 Q [MR. SCHNEIDER]: Have you ever seen Mr. [REDACTED]'s chart
16 displaying the participants in those two committees, those two
17 departments, as you put it? Have you ever seen the chart, Exhibit
18 23?

19 A [MR. [REDACTED]]: I don't believe so.

20 [END OF PAGE]

21

22

23

1 Q [MR. SCHNEIDER]: When you first went to speak to Mr. Hamdan,
2 it was your purpose in part to fill in information gaps in your
3 investigation if you could?

4 A [MR. ██████]: Yes. At that time, I was still assigned to the
5 COLE investigation.

6 Q [MR. SCHNEIDER]: A criminal investigation?

7 A [MR. ██████]: Yes.

8 Q [MR. SCHNEIDER]: Did you have any discussions--you and I--let
9 me back up.

10 You and I never met until you took the stand in December on
11 another issue?

12 A [MR. ██████]: That is correct.

13 Q [MR. SCHNEIDER]: And we had requested--I had requested an
14 opportunity to meet you and talk to you before that, but that was
15 declined. Right?

16 A [MR. ██████]: That's correct.

17 Q [MR. SCHNEIDER]: No mystery here. Now you know me, and you
18 kind of regret that. Right?

19 A [MR. ██████]: Absolutely.

20 Q [MR. SCHNEIDER]: Okay. But this was a policy of somebody's.
21 That wasn't your personal decision. Correct?

22 A [MR. ██████]: No, it is a personal decision in--as I
23 understand the policy is, it is up to the agent. It's a discretion

1 as to whether or not he will speak with defense prior to testifying.
2 It's not a written policy that you don't; however, I don't know of
3 anyone who has actually talked to defense prior to testifying, until
4 I came down here and found that someone actually did. So he will be
5 shunned.

6 Q [MR. SCHNEIDER]: Okay. So it was a personal decision, and
7 one which I won't take personally. You didn't know me back then.
8 Right?

9 A [MR. ██████]: Yes, sir.

10 Q [MR. SCHNEIDER]: Okay. And you and I first talked about that
11 subject on, I think, that stand in this room in December about
12 whether there was an ongoing criminal investigation at the time you
13 first got on the plane to fly down to Guantanamo to speak to Mr.
14 Hamdan. Right?

15 A [MR. ██████]: That's correct.

16 Q [MR. SCHNEIDER]: And have you had any discussions with anyone
17 since you answered that question on December 6--5th or 6th, 2007,
18 about your answer?

19 A [MR. ██████]: Yes.

20 Q [MR. SCHNEIDER]: With whom have you had discussions?

21 A [MR. ██████]: Well, obviously, Mr. Murphy. Probably some--I
22 think since December I think I've talked to some people about whether
23 or not their understanding was there was a criminal investigation or

1 that we were coming down here for an intelligence mission.

2 Q [MR. SCHNEIDER]: So it wouldn't surprise you if some others
3 were--well, do you know? Were any other witnesses alerted to that
4 topic coming up and anticipating it?

5 A [MR. ██████]: I don't know if they were alerted to it. But
6 at least when I talked to people about it, there was a disconnect on-
7 -some people thought one thing and there were others who had a
8 different idea.

9 Q [MR. SCHNEIDER]: You answered the question in December and
10 you answered the question last week; and your answer was accurate,
11 based on your situation, what you knew at the time you gave it.
12 Right?

13 A [MR. ██████]: That's correct.

14 Q [MR. SCHNEIDER]: Okay. And we'll get to that in a minute.
15 The telephone call that was arranged for Mr. Hamdan, in part at your
16 suggestion or in response to his request, what was his reaction after
17 he was permitted to make the phone call?

18 A [MR. ██████]: Mr. Hamdan cried quite a bit. He was very
19 grateful for the opportunity to speak with his wife, mostly, I would
20 say, grateful and relieved as well. I think a burden had been lifted
21 from him that at least his wife knew that he was alive.

22

23

1 Q [MR. SCHNEIDER]: He had told you before the call that they
2 didn't know if he was dead or alive. Right?

3 A [MR. [REDACTED]]: That was his belief. Yes.

4 Q [MR. SCHNEIDER]: And that phone call was arranged about 210
5 days after he was taken into custody. Right? The end of November to
6 the end of June, early July?

7 A [MR. [REDACTED]]: Right. So about seven months after that.

8 Q [MR. SCHNEIDER]: So it didn't surprise you that he was a
9 little anxious about that?

10 A [MR. [REDACTED]]: It didn't surprise me at all.

11 Q [MR. SCHNEIDER]: The conditions of his confinement during
12 your interrogation, the subject of which you expressed a concern and
13 things changed. I'm not sure if there's a connection, but maybe so?
14 Probably so?

15 A [MR. [REDACTED]]: That's----

16 Q [MR. SCHNEIDER]: I'm not reluctant to hear your answer, but I
17 think I can shorten that up.

18 Did you raise the concern on one day, and the next day it
19 was resolved?

20 A [MR. [REDACTED]]: I think it might have been even the same day.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: Even better. And your reaction, when you
2 heard what the conditions of confinement were, was--in the words of
3 one of your colleagues, now--you sort of flipped out. Right?

4 A [MR. [REDACTED]]: And I disagree with my colleague's----

5 Q [MR. SCHNEIDER]: The characterization?

6 A [MR. [REDACTED]]: ----assessment. I was upset. That is true.

7 Q [MR. SCHNEIDER]: Your objection to Agent [REDACTED]'s
8 description is sustained. You know, in your words, you were upset?

9 A [MR. [REDACTED]]: I was upset.

10 Q [MR. SCHNEIDER]: And you let people know professionally but
11 firmly that that was a problem. Right?

12 A [MR. [REDACTED]]: Yes.

13 Q [MR. SCHNEIDER]: Are you aware of what the standard operating
14 procedures were in Camp Delta at the time of your interview?

15 A [MR. [REDACTED]]: No.

16 Q [MR. SCHNEIDER]: Have you ever seen an SOP that speaks to
17 that? Does that refresh your recollection, a standard operating
18 procedure?

19 A [MR. [REDACTED]]: Is that a Bureau document?

20 Q [MR. SCHNEIDER]: Oh, no, it is not.

21 A [MR. [REDACTED]]: No. Then I'm not familiar with it.

22 Q [MR. SCHNEIDER]: A couple other questions, whether it
23 refreshes your recollection.

1 CTC [MR. MURPHY]: Objection, Your Honor. If he's not familiar
2 with it, nothing is going to refresh his recollection.

3 MJ [CAPT ALLRED]: True. Sustained.

4 Q [MR. SCHNEIDER]: You've heard about the SOP?

5 A [MR. ██████]: Right.

6 Q [MR. SCHNEIDER]: Have you heard about anything in writing?

7 A [MR. ██████]: I'm sorry?

8 Q [MR. SCHNEIDER]: Did anyone ever tell you that there was a
9 practice--not a policy, but practice--of enhancing and exploiting the
10 disorientation and disorganization felt by a newly arrived detainee
11 in the interrogation process? Did anyone ever tell you that?

12 A [MR. ██████]: I don't believe so.

13 Q [MR. SCHNEIDER]: Did anyone ever tell you that there was a
14 technique used which would foster dependence of the detainee on his
15 interrogator?

16 A [MR. ██████]: I don't think anyone ever told me that. But it
17 was something that you wanted to establish a relationship so that
18 they have that relationship with you and they feel trust with you.

19 Q [MR. SCHNEIDER]: Did anyone ever tell you that there was a
20 practice of isolating a detainee in solitary in order to enhance the
21 interrogation?

22 A [MR. ██████]: If anyone ever would have told me that, I would
23 have told them how I disagreed with that.

1 Q [MR. SCHNEIDER]: In fact, when you learned that Mr. Hamdan
2 was in solitary, during your interrogation, that's when you got
3 upset?

4 A [MR. ██████]: That's when I got upset.

5 Q [MR. SCHNEIDER]: No further questions on that subject.

6 A [MR. ██████]: You had me going there.

7 Q [MR. SCHNEIDER]: Out the door. All right. And if you're
8 confused by my questions, just tell me.

9 A [MR. ██████]: All right.

10 Q [MR. SCHNEIDER]: I don't mean to trip you up or surprise you.

11 A [MR. ██████]: No.

12 Q [MR. SCHNEIDER]: Mr. ██████ was part of the team. Right?
13 Part of the interview he was there, part of it ██████ was there?

14 A [MR. ██████]: Right. Right.

15 Q [MR. SCHNEIDER]: Just one aspect of the interrogation I'm not
16 sure has come out. Well, maybe it has, but I'm going to ask you
17 anyway. During the entire interrogation over the 13 days, over 13
18 days, everything Mr. Hamdan was saying was in Arabic?

19 A [MR. ██████]: That's correct.

20 Q [MR. SCHNEIDER]: Everything you were hearing--everything you
21 were hearing that you understood was in English?

22 A [MR. ██████]: Yes. That's correct.

23

1 Q [MR. SCHNEIDER]: Everything you were saying was in English?

2 A [MR. [REDACTED]]: Yes.

3 Q [MR. SCHNEIDER]: To your knowledge, everything Mr. Hamdan was
4 hearing that he understood was in Arabic?

5 A [MR. [REDACTED]]: Yes.

6 Q [MR. SCHNEIDER]: And somebody else, either Agent [REDACTED] or
7 Mr. [REDACTED], would then tell you in English what Mr. Hamdan had said.
8 Correct?

9 A [MR. [REDACTED]]: That's correct.

10 Q [MR. SCHNEIDER]: And you made your own handwritten notes of
11 what they told you he had said. Didn't you?

12 A [MR. [REDACTED]]: I did.

13 Q [MR. SCHNEIDER]: And I'm not suggesting it's the final
14 product. But you took those notes contemporaneously with what was
15 occurring at the time. Right?

16 A [MR. [REDACTED]]: Yes, sir.

17 Q [MR. SCHNEIDER]: And you took them to the best of your
18 ability at the time to be accurate and complete?

19 A [MR. [REDACTED]]: That would be correct.

20 Q [MR. SCHNEIDER]: I'm going to skip around on some subjects.
21 It's a product of putting my papers back in the notebook rather than
22 some grand design, so I will tell you when I move to a new subject.

23 A [MR. [REDACTED]]: I will try to track along.

1 Q [MR. SCHNEIDER]: Based on what you learned during the
2 interview over the 13 days, it was Usama bin Laden's policy that were
3 discussed. Right? Not Hamdan's.

4 A [MR. [REDACTED]]: Right. It was Usama bin Laden's policy.

5 Q [MR. SCHNEIDER]: And it was Usama bin Laden's speeches and
6 philosophy and ideology that Mr. Hamdan reported to you, not his own.
7 Right?

8 A [MR. [REDACTED]]: That's correct.

9 Q [MR. SCHNEIDER]: You have never interviewed Mr. Hamdan since
10 then, July 9, 2002. Correct?

11 A [MR. [REDACTED]]: That is correct.

12 Q [MR. SCHNEIDER]: You never interviewed him before that day,
13 June 26, 2002. Correct?

14 A [MR. [REDACTED]]: That is correct, also.

15 Q [MR. SCHNEIDER]: Have you ever taken whatever information Mr.
16 Hamdan provided you and asked questions of other people who were in
17 Afghanistan between February 1996 and November 24, 2001? I may be
18 able to confine that a little better.

19 Have you ever interviewed anyone else at Guantanamo?

20 A [MR. [REDACTED]]: No.

21 [END OF PAGE]

1 Q [MR. SCHNEIDER]: Would you say, generally speaking, that
2 there are certain characteristics which you understand that are
3 exhibited by what I might call hard-core terrorists?

4 A [MR. [REDACTED]]: That's kind of a tough one.

5 Q [MR. SCHNEIDER]: Let me try again. There's not going to be
6 hard and fast rules for every single individual, but have you ever
7 heard of--have you ever been made aware of any terrorists who have
8 actually admitted responsibility for terrorist acts?

9 A [MR. [REDACTED]]: Sure.

10 Q [MR. SCHNEIDER]: Some in connection with the three attacks
11 that we've been discussing. Right?

12 A [MR. [REDACTED]]: Yes. As well as the first World Trade Center
13 bombing.

14 Q [MR. SCHNEIDER]: 1993?

15 A [MR. [REDACTED]]: Right.

16 Q [MR. SCHNEIDER]: Have you ever heard of certain terrorists
17 who have been arrogant or even proud of what they've accomplished?

18 A [MR. [REDACTED]]: Yes.

19 Q [MR. SCHNEIDER]: Have you ever encountered or heard of
20 terrorists who utilize counter-interrogation techniques, ways to
21 evade even answering a single question?

22 A [MR. [REDACTED]]: Yes.

23

1 Q [MR. SCHNEIDER]: Or techniques where they would supply
2 misinformation, information that never checked out or wasn't right on
3 the money?

4 A [MR. ██████]: Yes.

5 Q [MR. SCHNEIDER]: Or even just sat silent and said, "I'm
6 willing to sit here forever silently"?

7 A [MR. ██████]: Yes.

8 Q [MR. SCHNEIDER]: That's a problem for an investigator. Isn't
9 it? It's less helpful than someone who speaks truth.

10 A [MR. ██████]: That tends to be a problem.

11 Q [MR. SCHNEIDER]: Did Mr. Hamdan--have you ever heard of such
12 people being fanatics about their cause, extremists?

13 A [MR. ██████]: Yes.

14 Q [MR. SCHNEIDER]: Did Mr. Hamdan ever exhibit those types of
15 characteristics that I just mentioned during your interrogation?

16 A [MR. ██████]: I would have to go with misinformation. You
17 know, he gave us some--you know, some of the things he would say--and
18 I don't know if we could even say it was misinformation. But it
19 would be to the point where what you want to do is try to tell your
20 interrogator or your interviewer what you think they already know and
21 hold out on things that they don't know or you think that they don't
22 know.

23 So, I mean, Mr. Hamdan gave us a lot of good information.

1 But, you know, clearly, based upon his relationship with bin Laden,
2 his access, time, there was more there. But on that same token, you
3 know, I've also had the experience of working with gang members who
4 really don't tell you everything, either. So whether it's a product
5 of, as you're saying, some sort of training or misinformation, I
6 don't know if I can put that into what Mr. Hamdan was trying to
7 accomplish. I can just say that, you know, we weren't getting
8 everything.

9 Q [MR. SCHNEIDER]: Do you know every single thing he told
10 people who preceded you?

11 A [MR. [REDACTED]]: No.

12 Q [MR. SCHNEIDER]: Do you know every single thing he told
13 people who interviewed him after you finished?

14 A [MR. [REDACTED]]: No.

15 Q [MR. SCHNEIDER]: Do you know what he told people in Kandahar,
16 in Bagram, in places before that, specifically?

17 A [MR. [REDACTED]]: No.

18 Q [MR. SCHNEIDER]: What was the mirror in the room? I didn't
19 understand that.

20 A [MR. [REDACTED]]: There's a one-way mirror in the interview room.
21 If someone is going to watch, they can sit behind that without being
22 viewed.

23

1 Q [MR. SCHNEIDER]: I've always wanted to know what a one-way
2 mirror is as opposed to a two-way mirror.

3 A [MR. [REDACTED]]: A two-way mirror, I'd call a window.

4 Q [MR. SCHNEIDER]: Okay. Very good. Totally responsive.

5 So you were using--one was in the room where folks could
6 observe what you were doing. Could they hear you?

7 A [MR. [REDACTED]]: If there was anyone in there. I believe there
8 may have been listening devices in the room.

9 Q [MR. SCHNEIDER]: Listening devices? Where people could
10 listen contemporaneously?

11 A [MR. [REDACTED]]: I believe that's correct. That wasn't what we
12 had. I don't think--there was no one, at least to my knowledge, no
13 one in the other room either watching or listening.

14 Q [MR. SCHNEIDER]: Listening devices that could be used if one
15 chose to record what was being said, so we'd have probably even a
16 better record. Right? If you chose to.

17 A [MR. [REDACTED]]: I don't know if it would be better.

18 Q [MR. SCHNEIDER]: Precisely. Now, let me ask you a few
19 specifics about Mr. Hamdan's attitude. Cooperative, generally
20 speaking?

21 A [MR. [REDACTED]]: Generally speaking.

22 Q [MR. SCHNEIDER]: Polite?

23 A [MR. [REDACTED]]: I found Mr. Hamdan to be very polite.

1 Q [MR. SCHNEIDER]: Respectful?

2 A [MR. ██████]: Extremely.

3 Q [MR. SCHNEIDER]: Your purpose was, in part, to try to obtain
4 information that would be valuable in investigating these crimes.
5 Right?

6 A [MR. ██████]: Yes.

7 Q [MR. SCHNEIDER]: And you were interested in particular if you
8 could get the information on the key perpetrators. Right?

9 A [MR. ██████]: Yes.

10 Q [MR. SCHNEIDER]: Folks who might be considered the ones who
11 absolutely were involved in the planning and organizing,
12 implementation, and execution of the actual attacks. Right?

13 A [MR. ██████]: Yes.

14 Q [MR. SCHNEIDER]: Was the totality of the evidence that he
15 provided to you of value to you?

16 A [MR. ██████]: Absolutely.

17 Q [MR. SCHNEIDER]: Did it check out, pretty much?

18 A [MR. ██████]: Most of it did.

19 Q [MR. SCHNEIDER]: Mr. ██████ used a phrase, "right on the
20 money." Does that sound right to you?

21 A [MR. ██████]: There was some aspects of what Mr. Hamdan was
22 telling us that were right on the money. Right on the money, you
23 know, that we knew as the investigators that--and most people have

1 seen this on TV. It's those things that we as investigators knew but
2 the general public didn't know. So that somebody who had that
3 information obviously knew things that had to be associated with the
4 operations.

5 Q [MR. SCHNEIDER]: And he gave it to you voluntarily?

6 A [MR. ██████]: Yes, he did.

7 Q [MR. SCHNEIDER]: No one had to beat it out of him. Right?

8 A [MR. ██████]: There was no beating.

9 Q [MR. SCHNEIDER]: I understand, and I agree. Now, did you
10 ever--and he had been in detention for a while; I guess I had already
11 asked you.

12 Another question. I know you didn't give him a rights
13 advisement, and we will come back to that as to why. But even if you
14 didn't give him a rights advisement, did you ever tell him, "Hey,
15 thanks for sharing the information with the United States of
16 America"?

17 A [MR. ██████]: I don't know if I ever thanked him.

18 Q [MR. SCHNEIDER]: But you were respectful as well?

19 A [MR. ██████]: I would like to think so.

20 **[END OF PAGE]**

21

22

23

1 Q [MR. SCHNEIDER]: I have no doubt. Were you--in your
2 exchanges with him, did you convey you appreciated his volunteering
3 in that way?

4 A [MR. ██████]: Yeah. I would say I conveyed that to Mr.
5 Hamdan.

6 Q [MR. SCHNEIDER]: And even though you didn't give him any
7 rights advisement, did anyone in the room ever say to him, "But
8 you've got to understand, some day somebody might use the information
9 against you"?

10 A [MR. ██████]: I can't recall that.

11 Q [MR. SCHNEIDER]: If you had, it would probably be in the
12 form, the form 302 report, or your notes?

13 A [MR. ██████]: Not necessarily. I mean, because what we would
14 say to Mr. Hamdan for the most part would be reflected in that. I
15 mean, there are occasions where we may put a specific question in for
16 emphasis along those lines. But for the most part, what I'm saying,
17 or Mr. ██████ or Mr. ██████, whoever is conducting these
18 interviews--it isn't necessarily what's important that we're saying,
19 it's what the person who we're interviewing is saying. That's what
20 is important.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: In fact, the forms always include the rights
2 advisement, and the person being interrogated, his or her response,
3 if you give one. Right?

4 A [MR. ██████]: If we give one, it's usually in the heading.
5 That's pretty much the first thing, the first paragraph, it's in
6 there.

7 Q [MR. SCHNEIDER]: And it typically says that that person
8 agreed to talk voluntarily, knowing the evidence would be used
9 against him. Right?

10 A [MR. ██████]: No. What I'm attempting to say, you know, to
11 give the biographical: On such and such date, Mr. X was interviewed
12 by Special Agent ██████: After being advised of his or her rights
13 and waiving his or her rights, which are contained in the--I think
14 it's FD 395, which was placed in one of the envelopes--Mr. X agreed
15 to speak with Agent ██████ and whoever.

16 Q [MR. SCHNEIDER]: Okay. There has been some discussion which
17 preceded you about the degree to which Mr. Hamdan was forthcoming, or
18 whether he occasionally just said, "I'm not going to talk to you."
19 You're generally aware that there were a lot of interviews which
20 preceded you?

21 A [MR. ██████]: On December--well, when we first spoke in
22 December, that's when I became aware of how many interviews actually
23 had taken place.

1 Q [MR. SCHNEIDER]: You say----

2 A [MR. ██████]: It was pretty extensive. I was surprised.

3 Q [MR. SCHNEIDER]: So, at least as you sit here today, you're

4 generally aware. Right?

5 A [MR. ██████]: I think so.

6 Q [MR. SCHNEIDER]: And I'd like to give--if I could just have

7 you share with the members of the panel what you do know about how

8 extensive it was. I'll try to go through it quickly. And I spoke

9 with my high-tech person last night, myself, and I kind of created,

10 not an exhibit, but something that may allow you to demonstrate your

11 testimony.

12 CDC [MR. SCHNEIDER]: If I may?

13 MJ [CAPT ALLRED]: You're going to show something to the

14 witness?

15 CDC [MR. SCHNEIDER]: I would just like to show this to

16 everyone, and I've shown it to counsel. Do you care? I'm sorry, I

17 shouldn't ask you that.

18 MJ [CAPT ALLRED]: This looks like it's the summary of evidence

19 that's already before the Court. You can show it to the members and

20 to the public.

21 CDC [MR. SCHNEIDER]: Let's just go through it, if we could, if

22 you will just bear with me.

23 MJ [CAPT ALLRED]: Sure.

1 Q [MR. SCHNEIDER]: Let's start with locations, if we could.

2 And I don't want to spend a lot of time; but, basically two
3 locations, Afghanistan and Guantanamo. Right?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. SCHNEIDER]: And we know about--you know about
6 Takteh-Pol, that he was there? If you don't, you can just tell me
7 that.

8 A [MR. [REDACTED]]: I think I do.

9 Q [MR. SCHNEIDER]: And do you know anything about where he was
10 in December of 2001?

11 A [MR. [REDACTED]]: No. Actually, I was in Afghanistan in December
12 of 2001 and I was in Kandahar, and he wasn't there at that time.

13 Q [MR. SCHNEIDER]: You never bumped into him?

14 A [MR. [REDACTED]]: No.

15 Q [MR. SCHNEIDER]: So all you can do is tell us that he wasn't
16 with you at that point. Was he?

17 A [MR. [REDACTED]]: No.

18 Q [MR. SCHNEIDER]: And I'm not going to press you if you don't
19 have any information.

20 A [MR. [REDACTED]]: Okay.

21 [END OF PAGE]

22

23

1 Q [MR. SCHNEIDER]: I'm just curious. You know that he went to
2 Bagram, you know that he went to Kandahar, and you know that he went
3 to Guantanamo. Right?

4 A [MR. [REDACTED]]: Right.

5 Q [MR. SCHNEIDER]: Okay. More high-tech exhibits. Dates of
6 reports. And here I think you may be helpful, but the first one that
7 we see as far as a report of interrogation is 30 January. Right?

8 A [MR. [REDACTED]]: Right.

9 Q [MR. SCHNEIDER]: [REDACTED] and [REDACTED]. The next, 12
10 February, [REDACTED] and [REDACTED]?

11 A [MR. [REDACTED]]: I don't know about that one.

12 Q [MR. SCHNEIDER]: Do the names sound familiar?

13 A [MR. [REDACTED]]: [REDACTED] sounds familiar.

14 Q [MR. SCHNEIDER]: FBI?

15 A [MR. [REDACTED]]: Yes.

16 Q [MR. SCHNEIDER]: 17 February, 8 March, 13 March, 5 April, 1
17 May, 7 May, 17 May. Does that sound about right, what you know about
18 the extensive interrogations and the individuals who participated?

19 A [MR. [REDACTED]]: I think, when we talked in December, you told
20 me there were eight interviews before, or at least nine.

21 Q [MR. SCHNEIDER]: Before yours.

22 A [MR. [REDACTED]]: Right. Some of these people, I have no idea.
23 Oh, there's even more.

1 Q [MR. SCHNEIDER]: And there's even--if I'm right, there's even
2 more than you knew of.

3 A [MR. [REDACTED]]: Right.

4 Q [MR. SCHNEIDER]: Yours was 13, probably 13 interviews over 14
5 days?

6 A [MR. [REDACTED]]: Right.

7 Q [MR. SCHNEIDER]: And, after your interview, a number of
8 others. Right?

9 A [MR. [REDACTED]]: A lot of interviews.

10 Q [MR. SCHNEIDER]: And 19 March 2003, do you know about that
11 one?

12 A [MR. [REDACTED]]: No.

13 Q [MR. SCHNEIDER]: I'm not going to go any farther than that,
14 but do you know if there were any others after that? I think you
15 were asked that on direct.

16 A [MR. [REDACTED]]: I think [REDACTED] talked to him after that, I
17 believe. It was in 2003, and I didn't see it up there.

18 Q [MR. SCHNEIDER]: I would like to ask you a couple questions
19 about those people who were participants in those meetings, if you
20 know.

21 A [MR. [REDACTED]]: Yeah.

22

23

1 Q [MR. SCHNEIDER]: And I've just gone through the reports and
2 listed names. Can you tell me who they worked with? I listed them.
3 Do you recognize those names?

4 A [MR. [REDACTED]]: Umm.

5 Q [MR. SCHNEIDER]: Witness One, I don't want you to tell me his
6 name.

7 A [MR. [REDACTED]]: Most, I think I recognize. Some, I have no
8 idea.

9 Q [MR. SCHNEIDER]: And there were others besides FBI who
10 participated in interviews where we have some record of them. Right?

11 A [MR. [REDACTED]]: That's my understanding.

12 Q [MR. SCHNEIDER]: Do these names look familiar: Detective
13 [REDACTED] NYPD? [REDACTED]; I think we met him yesterday.

14 A [MR. [REDACTED]]: Right. Yeah.

15 Q [MR. SCHNEIDER]: Let me ask you this, and I want to be
16 careful. And if you have a question, please comment.

17 A [MR. [REDACTED]]: No.

18 Q [MR. SCHNEIDER]: Mr. [REDACTED] didn't hesitate.

19 A [MR. [REDACTED]]: Hesitate on?

20 Q [MR. SCHNEIDER]: To ask me questions.

21 A [MR. [REDACTED]]: No. I know a [REDACTED] who is a Bureau person.
22
23

1 Q [MR. SCHNEIDER]: So he or she may go on the first list of FBI
2 as opposed to other agencies?

3 A [MR. [REDACTED]]: Right.

4 TC [LCDR STONE]: Your Honor, very quickly, with the witness,
5 may we approach?

6 MJ [CAPT ALLRED]: With the witness?

7 CDC [MR. SCHNEIDER]: That's fine with me. I don't want to do
8 anything----

9 **[Side-bar conference.]**

10 Q [MR. SCHNEIDER]: Point of clarification. Thank you, Counsel.
11 No first names here. And that's how I would like to keep it. Okay?
12 There's an initial occasionally where you might have the same last
13 name.

14 A [MR. [REDACTED]]: Okay.

15 Q [MR. SCHNEIDER]: Among FBI. And then a different--for
16 instance, and this is on the next page. Let's keep it just to the
17 names. And I want to be careful here, but would it surprise you if
18 interrogations occurred of Mr. Hamdan with respect to folks in
19 addition to the ones identified, the ones we know about? Yes or no.

20 A [MR. [REDACTED]]: No.

21 Q [MR. SCHNEIDER]: It wouldn't surprise you?

22 A [MR. [REDACTED]]: No.

23

1 Q [MR. SCHNEIDER]: In fact, it's quite likely. In fact, you
2 know that that's the case. Right? I don't want to know who, I don't
3 want to know when. But you know it happened. Right?

4 A [MR. [REDACTED]]: Yes.

5 Q [MR. SCHNEIDER]: With regard to the FBI, do you know a fellow
6 named [REDACTED]?

7 A [MR. [REDACTED]]: Yes, I know Bill.

8 Q [MR. SCHNEIDER]: And did you know he had some role down here?

9 A [MR. [REDACTED]]: I believe Bill was out of the Miami office, and
10 he was acting as the--for a period of time, the FBI's point of
11 contact or coordinator down here.

12 Q [MR. SCHNEIDER]: So if his name showed up in a record down
13 here with regard to just basic detention, it wouldn't surprise you?

14 A [MR. [REDACTED]]: No.

15 Q [MR. SCHNEIDER]: I would like to talk about certain
16 departments, to use Mr. [REDACTED]'s phrase, of the United States
17 Government, who you know interviewed, well, all but--I don't want to
18 know all of them: I just want to ask you some that I've listed.
19 Okay? Even if there are others.

20 Does this look about right?

21 A [MR. [REDACTED]]: Some of them I can say, yes, they definitely--I
22 know that they did that. Others, I don't know.

23

1 Q [MR. SCHNEIDER]: You don't know that they interviewed Mr.
2 Hamdan?

3 A [MR. ██████]: Right.

4 Q [MR. SCHNEIDER]: If I took those off the form 302 reports
5 where identified, that wouldn't surprise you if, for instance, the
6 NCIS had been involved?

7 A [MR. ██████]: I'm aware of NCIS.

8 Q [MR. SCHNEIDER]: Naval Criminal Investigation Service?

9 A [MR. ██████]: Right. INS. I'm not aware of Air Force OSI,
10 but it wouldn't surprise me that they did.

11 Q [MR. SCHNEIDER]: Fair enough. So would it be unfair--well,
12 would it be inaccurate, based on your experience and what you know,
13 to suggest that Mr. Hamdan refused to speak to people? In the big
14 picture, he spoke to a lot of folks. Didn't he?

15 A [MR. ██████]: He did speak to a lot of people.

16 Q [MR. SCHNEIDER]: Over a long period of time?

17 A [MR. ██████]: Over a long period of time.

18 Q [MR. SCHNEIDER]: Under circumstances that you learned when
19 you arrived here were difficult for him. No contact until that point
20 with his family?

21 A [MR. ██████]: Well, that can always be to--yeah, separated,
22 in that when I got here I didn't know how many people he had talked
23 to. And the list was much shorter when I had talked to him, and that

1 list obviously grew after I had finished speaking with Mr. Hamdan.

2 Q [MR. SCHNEIDER]: Let's move along. Takteh-Pol, the first
3 five, six, seven days, I'm not going to ask you about because I don't
4 think you have any personal knowledge. Am I right?

5 A [MR. [REDACTED]]: That's correct.

6 Q [MR. SCHNEIDER]: December, you mentioned you don't have
7 knowledge. Do you know where he arrived at the end of December,
8 2001?

9 A [MR. [REDACTED]]: Not--it was probably--it was either Bagram or
10 Kandahar.

11 Q [MR. SCHNEIDER]: All right. Can you shed any light on what
12 information he provided at Bagram, personal knowledge?

13 A [MR. [REDACTED]]: I think the only thing I think I may have
14 known--no, not Bagram. I think the first time----

15 Q [MR. SCHNEIDER]: Okay. I'll get to Kandahar if you are
16 thinking about it. I don't mean to cut you off. But if we're going
17 to Kandahar, wait for me.

18 A [MR. [REDACTED]]: Okay.

19 Q [MR. SCHNEIDER]: Do you know if he had ever been taken to the
20 Panjshir Valley? Have you ever heard that?

21 A [MR. [REDACTED]]: I don't know that.

22

23

1 Q [MR. SCHNEIDER]: I'm not going to ask you if he was, then.

2 But let me ask you a question about the Panjshir Valley. At the
3 time, December 2001, is that a location where the enemies of the
4 Taliban forces----

5 A [MR. ██████]: The Northern Alliance?

6 Q [MR. SCHNEIDER]: Yes.

7 A [MR. ██████]: Yes.

8 Q [MR. SCHNEIDER]: And the Northern Alliance was adverse to the
9 Taliban big time. Right? A war was going on between the two?

10 A [MR. ██████]: That's correct.

11 Q [MR. SCHNEIDER]: And any foreign Arab fighters who were
12 working with or assisting or fighting alongside the Taliban--let me
13 ask you this without a bunch of peripheral questions. Can you think
14 of a more unwelcoming destination for a foreign Arab fighter in
15 December of 2001 than the Panjshir Valley?

16 A [MR. ██████]: Hmm. That's a tough----

17 Q [MR. SCHNEIDER]: Very few?

18 A [MR. ██████]: That's a tough one. That's a tough one.

19 Because, for some of these guys, the host governments that they came
20 from would be pretty adverse to them. But going up there, up to the
21 Panjshir Valley at that time, you know, that was the frontline of the
22 fighting between the Northern Alliance and the Taliban. So it was
23 pretty rough up there, too.

1 Q [MR. SCHNEIDER]: How about somebody from Yemen, an Arab from
2 Yemen? It's not a great destination. Right?

3 A [MR. [REDACTED]]: Not a great destination for them.

4 Q [MR. SCHNEIDER]: Let's go to Bagram. Have you ever heard of
5 a fellow named Colonel [REDACTED]?

6 A [MR. [REDACTED]]: The name sounds familiar.

7 Q [MR. SCHNEIDER]: Do you know what involvement, if any, he had
8 with respect to Mr. Hamdan, and whether he could shed any light on
9 the subject of whether Mr. Hamdan provided information, cooperation
10 to the United States of America which was of vital and strategic use
11 in this case?

12 A [MR. [REDACTED]]: I couldn't answer that.

13 Q [MR. SCHNEIDER]: How about a fellow by the name of Lieutenant
14 Colonel [REDACTED]?

15 A [MR. [REDACTED]]: No. Not familiar.

16 Q [MR. SCHNEIDER]: Have you ever heard anything about Mr.
17 Hamdan being willing to cooperate in any sort of an event, not just
18 talking to people, but participating in some events while he was at
19 Bagram?

20 A [MR. [REDACTED]]: No. Not at Bagram.

21 Q [MR. SCHNEIDER]: Let's go to Kandahar.

22 A [MR. [REDACTED]]: Okay.

23

1 Q [MR. SCHNEIDER]: That's the next destination of which you're
2 aware of. Right?

3 A [MR. [REDACTED]]: Yes, sir.

4 Q [MR. SCHNEIDER]: You know that he arrived there some time
5 after late January 2002? I'm not sure of the date, myself.

6 A [MR. [REDACTED]]: I think that's correct. Because Agent
7 [REDACTED] would have been----

8 Q [MR. SCHNEIDER]: Let's talk about----

9 A [MR. [REDACTED]]: Okay.

10 Q [MR. SCHNEIDER]: ----what happened in Kandahar. You know,
11 because your fellow FBI agents and others, some of them that we're
12 not going to disclose, talked to him there. Right?

13 A [MR. [REDACTED]]: Yes. I believe Agent [REDACTED] was the first
14 person that talked to--from the agency, from the Bureau. I think
15 he's the first person, I was aware of, from the Bureau that talked to
16 Mr. Hamdan.

17 Q [MR. SCHNEIDER]: And Mr. Hamdan, he had returned to
18 Afghanistan sometime in 2001. Based upon what you later learned.
19 Right?

20 A [MR. [REDACTED]]: Right. Well, no. No. Based upon what he had
21 told us.

22 Q [MR. SCHNEIDER]: Yeah. What you learned from him.

23 A [MR. [REDACTED]]: Right.

1 Q [MR. SCHNEIDER]: Okay. So he could then--by the time he
2 showed up in Takteh-Pol, he had been driving with bin Laden maybe,
3 what, about nine, ten months after he returned to Afghanistan?

4 A [MR. [REDACTED]]: Wait. When he returned from Yemen, he had been
5 driving?

6 Q [MR. SCHNEIDER]: Yemen. I'm sorry. Returned to Afghanistan
7 from Yemen.

8 A [MR. [REDACTED]]: From Yemen. Right. At a minimum of nine to
9 ten months. Right.

10 Q [MR. SCHNEIDER]: And you understand he was arrested in late
11 November 2001, and taken into custody?

12 A [MR. [REDACTED]]: I believe--I think--yeah, I learned that. I
13 believe it was November of 2001.

14 Q [MR. SCHNEIDER]: Now, to your knowledge, was he arrested and
15 taken into custody because he was a valuable source of information?

16 A [MR. [REDACTED]]: I don't think that's why he was picked up.

17 Q [MR. SCHNEIDER]: While in U.S. custody, you're aware that he
18 actually drew handwritten maps for the FBI and others showing the
19 location of bin Laden camps, residences, compounds, and guesthouses.
20 Correct?

21 A [MR. [REDACTED]]: I don't know that I was aware of the hand-drawn
22 maps. I was only aware that he had taken FBI agents to some of the
23 safe houses and guesthouses.

1 Q [MR. SCHNEIDER]: He had actually guided them to the
2 destination. Right?

3 A [MR. ██████]: Yes, he did.

4 Q [MR. SCHNEIDER]: And based on what you know, he did that
5 voluntarily, cooperatively, willingly? No one had to persuade him
6 other than to just ask him. Right? As far as you know.

7 A [MR. ██████]: Yeah. I really couldn't comment on how they
8 got him to do that. I just know that he did.

9 Q [MR. SCHNEIDER]: He had identified a number of photos at
10 various locations in Afghanistan and Kandahar and Guantanamo Bay of
11 people that he told you were really, really involved in the terrorist
12 attacks. Right? Voluntarily?

13 A [MR. ██████]: Identified the photos?

14 Q [MR. SCHNEIDER]: Yeah.

15 A [MR. ██████]: Yes, he did.

16 Q [MR. SCHNEIDER]: Or, to state it better, he identified the
17 people who were in the photos. Didn't he?

18 A [MR. ██████]: He identified, yeah, a lot of photos.

19 Q [MR. SCHNEIDER]: A lot of them. Do you know how many?

20 A [MR. ██████]: No.

21 Q [MR. SCHNEIDER]: I didn't have time to do a list.

22 A [MR. ██████]: There were--the photo book that we showed Mr.
23 Hamdan, gosh, there must have been--there were probably over 100

1 photographs contained in that photo book, and he probably identified
2 35 people. Some of them would have been bin Laden, Zawahiri, that
3 sort of thing. But he also confirmed as well for us identities of
4 some of the individuals in those photo books for us.

5 Q [MR. SCHNEIDER]: He not only told you who they were, but told
6 you what they did, when he could. Didn't he?

7 A [MR. [REDACTED]]: Yeah. He gave us--on those that he could, he
8 gave us his understanding of: If they were in al Qaeda, where they
9 fit in, what their role was, perhaps what--when the last time that he
10 had seen them. You know, what their function was. Things of that
11 nature.

12 Q [MR. SCHNEIDER]: For instance, an area that you were keenly
13 interested in: Who was involved in the outside operations committee
14 and the media and propaganda committees, two committees I think you
15 told me earlier were the ones really involved, actually involved, in
16 the attacks. Right?

17 A [MR. [REDACTED]]: Right.

18 Q [MR. SCHNEIDER]: He told you?

19 A [MR. [REDACTED]]: I think that was just prior to the photo book.
20 We talked about the al Qaeda structure as he understood it, the
21 different committees, who was on the committees, who would have
22 access to the committees, and what their primary functions were.

23

1 Q [MR. SCHNEIDER]: You heard something earlier this week about
2 Mr. Hamdan saying that America is to be blamed for 9/11. That was a
3 statement that was interpreted while you were in the room?

4 A [MR. ██████████]: That's correct.

5 Q [MR. SCHNEIDER]: Isn't it fair to say that the proper
6 interpretation of those words in the context of what he was saying:
7 You should have retaliated against bin Laden earlier, taken him out?

8 A [MR. ██████████]: What Mr. Hamdan had said was essentially that
9 the U.S. had somewhat brought 9/11 upon itself in the fact that, "You
10 had an opportunity in Sudan to take out bin Laden. Then, after the
11 embassy bombings you knew that it was bin Laden, and then the USS
12 COLE attack, and you did nothing about that. Bin Laden was
13 emboldened and told us, 'There is no way that the U.S. will put
14 ground forces into Afghanistan.' So, it's your fault."

15 Q [MR. SCHNEIDER]: He wasn't suggesting that somehow America
16 had taken actions to facilitate the attacks? That would be a
17 misinterpretation?

18 A [MR. ██████████]: No. That would be--yeah. That would be not
19 the way--I mean, bin Laden said all of that. But Mr. Hamdan, it was
20 more along the lines of: Look, you had all these opportunities,
21 America. There's times that you didn't do anything about it.

1 Q [MR. SCHNEIDER]: Moving on to a different topic. In your
2 handwritten notes, there's some reference to somebody else other than
3 Mr. Hamdan, somebody else, taking a conditional bayat. Right?

4 A [MR. [REDACTED]]: Um-hmm. Jandal.

5 Q [MR. SCHNEIDER]: He told you about it?

6 A [MR. [REDACTED]]: Right.

7 Q [MR. SCHNEIDER]: Did anyone, to your knowledge, follow up on
8 who was Abu Nasser--excuse me, Abu Yasser, who owned the car? Who
9 may have owned the car. That's not something you talked to him
10 about?

11 A [MR. [REDACTED]]: No.

12 Q [MR. SCHNEIDER]: New topic, Taliban forces. To your
13 knowledge, were certain elements associated with bin Laden, providing
14 support and actually fighting alongside the Taliban?

15 A [MR. [REDACTED]]: After bin Laden issued the fatwa essentially
16 declaring jihad against the Northern Alliance, like I said earlier,
17 Arabs from all over were coming in. And they were joining not under,
18 necessarily, the Taliban, but they were joining the Taliban's fight
19 against the Northern Alliance.

20 Q [MR. SCHNEIDER]: You and I talked about this in December.
21 Correct?

22 A [MR. [REDACTED]]: We did.

23

1 Q [MR. SCHNEIDER]: And, generally speaking, I don't want
2 to--I'm happy to, but I'm also willing to abbreviate it a little bit.
3 Isn't it true that those people, whoever they were, were also
4 involved in, for instance, trucking supplies, military supplies to
5 the conventional battlefield?

6 A [MR. ████████]: Mr. Hamdan himself did that on at least one
7 occasion. So I'm going to go from there, that he wasn't the only one
8 that was doing that.

9 Q [MR. SCHNEIDER]: Bringing even weapons, components, or
10 ammunition supplies, food, to the battlefield of what I would call
11 the conventional armed battle. Right?

12 A [MR. ████████]: I don't know if there's anything conventional
13 about that fight. But there was somewhat of a, I guess we would say,
14 a frontline. And the Taliban controlled, depending who you listen
15 to, 85 or 80 percent of Afghanistan. Ten to 15 percent of it was not
16 controlled by the Taliban, and that was controlled by the Northern
17 Alliance up in the Panjshir Valley. So bin Laden had asked, at least
18 on the one occasion that we know of, Mr. Hamdan to take military
19 supplies to the front. Now, when we say the front, that would have
20 been where the Taliban was engaged with the Northern Alliance.

21 **[END OF PAGE]**

1 Q [MR. SCHNEIDER]: Not trucking supplies to some special
2 operations or outside activities, a terrorist attack. Right? A
3 different deal.

4 A [MR. ██████]: A different deal.

5 Q [MR. SCHNEIDER]: You know a fellow named al-Iraqi?

6 A [MR. ██████]: Abed Al-Hadi Al-Iraqi.

7 Q [MR. SCHNEIDER]: Bingo.

8 A [MR. ██████]: The military commander?

9 Q [MR. SCHNEIDER]: Bingo.

10 A [MR. ██████]: Abed Al-Hadi Al-Iraqi, from my understanding,
11 was military commander of the Arabs who were fighting against the
12 Northern Alliance.

13 Q [MR. SCHNEIDER]: Have you ever read your transcript of the
14 testimony in December?

15 A [MR. ██████]: I believe I have.

16 Q [MR. SCHNEIDER]: Do you remember telling me that there were
17 two types of fighters, fighters for the front and fighters for the
18 outside activities? The first being that actual battle in
19 Afghanistan, the second being the terrorist attacks. Right?

20 A [MR. ██████]: Well, the first would be--and this is what, in
21 the context of what we're saying is al Qaeda and their training
22 camps, trained basically two types of fighters: Those that would go
23 to the front line and fight against the Northern Alliance, and then

1 those that would go to outside activities, which would be the
2 terrorist activities. It didn't necessarily mean that they were
3 going to get a mission, but they would--they were brothers in the
4 camps that would make it known that they were willing to engage in
5 that, whether it be a suicide mission, martyrdom mission, anything
6 along those lines. They would make it clear, and they could be
7 steered in that direction.

8 Q [MR. SCHNEIDER]: Which type was Mr. Hamdan? Did he ever
9 actually fight on the front, to your knowledge?

10 A [MR. ██████████]: I don't know that we asked him if he fought on
11 the front. I know he went to the frontline.

12 Q [MR. SCHNEIDER]: He drove bin Laden there once?

13 A [MR. ██████████]: Yeah, they went to the front to--I'm going
14 to say, to engage in battle. But at that time, the Northern Alliance
15 was overrunning the Taliban positions, and Saif Al-Adel, who was bin
16 Laden's head of security, said, Saif--basically, "You get bin Laden
17 out of here." And at that battle, that's where the individual who
18 recruited Mr. Hamdan for jihad in Tajikistan was killed and then
19 Khallad bin Attash had lost his leg in that battle.

20 Q [MR. SCHNEIDER]: And that was the battle against the
21 Russians. Right?

22 A [MR. ██████████]: No. That was the battle against the Northern
23 Alliance.

1 Q [MR. SCHNEIDER]: And that was before the United States was a
2 party to that armed conflict. Right? At that particular event?

3 A [MR. [REDACTED]]: Well, that was 19-96 or -7, I believe.

4 Q [MR. SCHNEIDER]: Before the United States was a party to that
5 armed conflict in Afghanistan. Correct?

6 A [MR. [REDACTED]]: Yes. Yes.

7 Q [MR. SCHNEIDER]: Okay. I'm curious if--well, a couple
8 questions about your notes. Have you reviewed the handwritten ones
9 as well as the typewritten summary?

10 A [MR. [REDACTED]]: I have.

11 Q [MR. SCHNEIDER]: And the typewritten summary, from your
12 investigation, is----

13 A [MR. [REDACTED]]: 21 pages.

14 Q [MR. SCHNEIDER]: ----21 pages. Right?

15 A [MR. [REDACTED]]: That's correct.

16 Q [MR. SCHNEIDER]: Single-spaced?

17 A [MR. [REDACTED]]: I think it's single-spaced.

18 Q [MR. SCHNEIDER]: Maybe I can refresh your recollection. Just
19 demonstrative.

20 A [MR. [REDACTED]]: It's single-spaced.

21 Q [MR. SCHNEIDER]: Okay. And that's just your end, not the
22 other however many number there are. Correct?

23 A [MR. [REDACTED]]: That's correct.

1 Q [MR. SCHNEIDER]: Okay. A couple questions about the
2 handwritten notes. You have a reference on the second--well, do you
3 recall Mr. Hamdan telling you who AQ was?

4 A [MR. ██████████]: Al Qaeda.

5 Q [MR. SCHNEIDER]: Did he tell you some individuals?

6 A [MR. ██████████]: Several.

7 Q [MR. SCHNEIDER]: UBL. Abu Hafs?

8 A [MR. ██████████]: Abu Hafs.

9 Q [MR. SCHNEIDER]: Saif?

10 A [MR. ██████████]: Saif Al-Adel.

11 Q [MR. SCHNEIDER]: Mohammed?

12 A [MR. ██████████]: Mohammed Atef.

13 Q [MR. SCHNEIDER]: These are your notes. Right?

14 A [MR. ██████████]: Bilal. Khallad.

15 Q [MR. SCHNEIDER]: Does that refresh your recollection?

16 A [MR. ██████████]: Um-hmm.

17 Q [MR. SCHNEIDER]: And he spoke with you about Abed Al-Hadi
18 Al-Iraqi being the military commander on the front of the military
19 battle. Right?

20 A [MR. ██████████]: Um-hmm.

21 [END OF PAGE]

1 Q [MR. SCHNEIDER]: He told you that he just wanted to keep his
2 job. Right? Meaning, Mr. Hamdan.

3 A [MR. [REDACTED]]: He did tell us, yeah, on this one occasion
4 where I think he walked out after--was it learning that Muhajir has
5 been involved in the embassy bombings? But he didn't say anything
6 because he wanted to keep his job.

7 Q [MR. SCHNEIDER]: His word, "job"?

8 A [MR. [REDACTED]]: Job.

9 Q [MR. SCHNEIDER]: He actually displayed, or you wrote a little
10 diagram showing the frontline as one area, outside activities as
11 another. Right? Do you remember that?

12 A [MR. [REDACTED]]: Let me take a look at that one.

13 CTC [MR. MURPHY]: Your Honor, I'm going to object, unless this
14 is refreshing recollection or impeaching, simply showing all the
15 notes as if they were exhibits.

16 CDC [MR. SCHNEIDER]: I'll ask a foundation question.

17 MJ [CAPT ALLRED]: Can you see this now?

18 CDC [MR. SCHNEIDER]: Not yet.

19 MJ [CAPT ALLRED]: Why don't you just lay your foundation.

20 Q [MR. SCHNEIDER]: Did you just tell me you could answer the
21 question if I showed you your notes?

22 A [MR. [REDACTED]]: What's the question?

23

1 Q [MR. SCHNEIDER]: Did you do a little diagram showing the
2 frontline military battle responsibilities, outside activities
3 elsewhere; do you remember that? Would it help to show you your note
4 to refresh your recollection?

5 A [MR. ██████]: Sure.

6 CDC [MR. SCHNEIDER]: May I?

7 MJ [CAPT ALLRED]: You may. Mark this the next appellate
8 exhibit in order.

9 Q [MR. SCHNEIDER]: Do you see it?

10 A [MR. ██████]: I do.

11 Q [MR. SCHNEIDER]: Does that refresh your recollection such
12 that you now can testify? Not just by reading the notes, but
13 recollection being refreshed, you now have a memory of doing this?

14 A [MR. ██████]: Yes. I did this.

15 Q [MR. SCHNEIDER]: And does it display what I just asked you,
16 the separate frontline, military responsibilities, and the outside
17 activities on another place on the chart?

18 A [MR. ██████]: It does.

19 Q [MR. SCHNEIDER]: You also took some notes on the farming
20 operations of people associated with bin Laden. Right?

21 A [MR. ██████]: Yes.

22

23

1 Q [MR. SCHNEIDER]: Did that prompt any further investigation?

2 A [MR. [REDACTED]]: When you say "further investigation," do you
3 mean----

4 Q [MR. SCHNEIDER]: Follow-up.

5 A [MR. [REDACTED]]: For follow-up questions, inquiry?

6 Q [MR. SCHNEIDER]: Yeah.

7 A [MR. [REDACTED]]: I think we did ask him about--one of the things
8 we were interested in when it came to the farming committee was when
9 they were getting chemicals and potentially getting that. So we were
10 asking about weapons of mass destruction, WMD. And I think Mr.
11 Hamdan said it would be impossible for bin Laden to get weapons of
12 mass destruction. I think that might have been the limit of the
13 farming committee, other than who the members were.

14 Q [MR. SCHNEIDER]: Did he ever talk to you in terms of having
15 left bin Laden, not just Kandahar?

16 A [MR. [REDACTED]]: Yeah. He left in 2000. Well, actually, he
17 left--the first time was to go get married. Then he left again in
18 2000 to go back to Yemen. I think he went on haj as well at that
19 time. And then he left again, which you saw on the map, in October,
20 the middle of October to get--what he said, to get his wife out of
21 Afghanistan.

22

23

1 Q [MR. SCHNEIDER]: The middle of October?

2 A [MR. ██████]: I think it was the middle of October of 2001, I
3 think.

4 Q [MR. SCHNEIDER]: Left bin Laden?

5 A [MR. ██████]: I think it was that time period.

6 Q [MR. SCHNEIDER]: And apprehended November 24, 2001?

7 A [MR. ██████]: It could have been----

8 Q [MR. SCHNEIDER]: Take my word for it.

9 A [MR. ██████]: Again----

10 Q [MR. SCHNEIDER]: Now, any information that he was ever with
11 bin Laden between mid October and the end of November? Do you have
12 personal knowledge?

13 A [MR. ██████]: I don't have any personal knowledge of that.

14 Q [MR. SCHNEIDER]: Have you ever heard that from anyone?
15 Evidence.

16 A [MR. ██████]: No.

17 Q [MR. SCHNEIDER]: I'm not going to take you through your
18 report. Is that okay with you?

19 A [MR. ██████]: That works out for me.

20 Q [MR. SCHNEIDER]: Have you ever investigated a conspiracy?

21 A [MR. ██████]: Yes.

22

23

1 Q [MR. SCHNEIDER]: Generally speaking, is it helpful to know if
2 someone is available who admits knowing intentional participation and
3 is going to tell you who else is involved?

4 A [MR. ██████]: Absolutely.

5 Q [MR. SCHNEIDER]: So if you had an opportunity to speak with,
6 let's just say, someone in the very leadership of al Qaeda who has
7 admitted responsibility and participation and is willing to talk to
8 you about those things, would that be of interest?

9 A [MR. ██████]: It would very much be of interest.

10 Q [MR. SCHNEIDER]: Have you ever had that opportunity?

11 A [MR. ██████]: Have I had the opportunity to talk?

12 MJ [CAPT ALLRED]: How about a more specific question?

13 Q [MR. SCHNEIDER]: Have you ever talked to KSM?

14 A [MR. ██████]: No.

15 Q [MR. SCHNEIDER]: Have you ever talked to bin Attash?

16 A [MR. ██████]: No.

17 Q [MR. SCHNEIDER]: Have you ever talked to al-Iraqi?

18 A [MR. ██████]: No.

19 Q [MR. SCHNEIDER]: Have you ever talked to Moussaoui?

20 A [MR. ██████]: No.

21 Q [MR. SCHNEIDER]: What did you think of the written answers
22 from KSM to the written questions?

23 A [MR. ██████]: I haven't seen them.

1 Q [MR. SCHNEIDER]: What was your reaction to the written
2 answers Mr. bin Attash provided with regard to the subjects that he
3 was involved with and those he was not?

4 A [MR. [REDACTED]]: I haven't seen those, either.

5 Q [MR. SCHNEIDER]: If you know, who is a fellow named Tabarek?

6 A [MR. [REDACTED]]: Tabarek?

7 Q [MR. SCHNEIDER]: Yes. I told [REDACTED] I would get
8 it right, but I didn't.

9 CDC [MR. SCHNEIDER]: Exhibit 23, slide 5, please.

10 MJ [CAPT ALLRED]: Okay.

11 Q [MR. SCHNEIDER]: Does he have another name?

12 MJ [CAPT ALLRED]: Do you want the court reporter to show her
13 copy, or are you putting something on the ELMO?

14 CDC [MR. SCHNEIDER]: It's in evidence. It's on the ELMO, I
15 would like the witness to see it, and anyone else.

16 MJ [CAPT ALLRED]: Do you have a copy, then, that you will show
17 from there?

18 CDC [MR. SCHNEIDER]: Yes. It's on the screen now. It's just
19 not projected.

20 MJ [CAPT ALLRED]: Okay. You may show that to everyone.

21 CDC [MR. SCHNEIDER]: I will try to do so.

22 Q [MR. SCHNEIDER]: Still at the bottom. Abu Assim?

23 A [MR. [REDACTED]]: Yes.

1 Q [MR. SCHNEIDER]: The same guy?

2 A [MR. [REDACTED]]: I believe it is.

3 Q [MR. SCHNEIDER]: What do you know, based on your

4 investigation and information that's come your way over the last 10

5 years, about his involvement?

6 A [MR. [REDACTED]]: When Saif isn't available, not there--that's

7 Saif Al-Adel--Abu Assim, Tabarek, would run the security detail for

8 bin Laden.

9 Q [MR. SCHNEIDER]: Did anyone suggest to you that you might be

10 asked a question like that today?

11 A [MR. [REDACTED]]: No.

12 Q [MR. SCHNEIDER]: Okay. Do you know what his--well, I think

13 you've already told me who he is. He's responsible for bodyguards?

14 A [MR. [REDACTED]]: When Saif Al-Adel is not available.

15 Q [MR. SCHNEIDER]: Do you know where he is today?

16 A [MR. [REDACTED]]: No.

17 Q [MR. SCHNEIDER]: Do you know that he was once here?

18 A [MR. [REDACTED]]: I had heard that.

19 Q [MR. SCHNEIDER]: Have you ever heard he's no longer here?

20 A [MR. [REDACTED]]: I had heard that as well.

21 Q [MR. SCHNEIDER]: Does that surprise you?

22 A [MR. [REDACTED]]: Nothing surprises me anymore.

23

1 Q [MR. SCHNEIDER]: Do you know that he has never been charged
2 by the United States Government? Let me ask it in a more
3 conventional way.

4 To your knowledge, has he ever been charged by the United
5 States Government?

6 A [MR. ██████]: Not to my knowledge.

7 Q [MR. SCHNEIDER]: Did KSM have involvement in the outside
8 activities, as far as you know?

9 A [MR. ██████]: I don't know that he was on the committee, but
10 he had direct interaction with bin Laden.

11 Q [MR. SCHNEIDER]: On that subject?

12 A [MR. ██████]: On, yeah. Definitely on the subject of outside
13 activities.

14 Q [MR. SCHNEIDER]: And KSM wasn't just a driver. Was he?

15 A [MR. ██████]: No.

16 Q [MR. SCHNEIDER]: How about bin Attash?

17 A [MR. ██████]: Bin Attash was a senior lieutenant, was
18 more--had served at one time, I think, driving. But he was much more
19 than that. Bin Attash--this isn't what I learned from Mr. Hamdan.

20 Q [MR. SCHNEIDER]: I understand.

21 A [MR. ██████]: Bin Attash was much more than that. Bin
22 Attash, along with Nashiri, were senior lieutenants and had a very
23 prominent role within al Qaeda. Bin Attash funneled money for the al

1 Qaeda group, recruited members, was very much respected and
2 well-liked within the organization. Again, he lost his brother in
3 fighting I guess the Northern Alliance, and he had also lost a leg.
4 So he had a lot of respect within the organization.

5 When the failed attack on the USS THE SULLIVANS had
6 occurred, two individuals traveled to Bangkok. One of them would
7 later be the suicide--one of the suicide bombers on the USS COLE.
8 They actually met in Bangkok. Bin Attash had also met with two
9 individuals in Malaysia that would later go on to be hijackers on
10 9/11. So he was very much trusted in the organization and aware of
11 several of the outside activities that would take place.

12 Nashiri, also a senior lieutenant. And he was in charge of
13 essentially outside activities, but the Gulf region; he would be
14 responsible for the USS COLE and probably--well, the attack on the
15 French oil tanker as well.

16 Q [MR. SCHNEIDER]: Would it be important to you, as an
17 investigator investigating a crime of conspiracy, to try to determine
18 intent, to prove intent?

19 A [MR. [REDACTED]]: I mean, as an investigator, I will investigate
20 it; I will gather the facts. And then--you know, they are what they
21 are--turn that over to the prosecutor, and then he will prove that
22 intent.

23

1 Q [MR. SCHNEIDER]: To be absolutely clear, he may charge, but
2 somebody else determines whether the proof is there or not.

3 A [MR. [REDACTED]]: That's correct.

4 Q [MR. SCHNEIDER]: Correct?

5 My last question, Agent [REDACTED]. And I appreciate your
6 time. If you had been called as a witness by the defense instead of
7 the prosecution, isn't it true that your testimony here today would
8 be exactly the same as you've just given? Your testimony is what it
9 is. It doesn't matter who called you?

10 A [MR. [REDACTED]]: That is correct.

11 CTC [MR. SCHNEIDER]: Thank you.

12 MJ [CAPT ALLRED]: Thank you, Mr. Schneider.

13 CTC [MR. MURPHY]: Your Honor, I wonder, with the time, if we
14 might return to this after lunch. It's now about 1230.

15 MJ [CAPT ALLRED]: Well, it is. I understand from the
16 government that this is the last witness for the day?

17 CTC [MR. MURPHY]: For the day. Yes, sir.

18 MJ [CAPT ALLRED]: Well, perhaps we can finish it before lunch
19 and just call it a day then. How long do you expect your redirect to
20 be?

21 CTC [MR. MURPHY]: Not long.

22 MJ [CAPT ALLRED]: Why don't we go ahead and stretch. Well,
23 let's see the galley closes at 1300?

1 CTC [MR. MURPHY]: Yes, sir.

2 MJ [CAPT ALLRED]: Well, let me ask the members. Would you
3 rather go get some lunch and come back for what might be 20 minutes
4 or half an hour after lunch? Or would you rather run the risk of
5 having lunch somewhere other than the galley today?

6 Press on. Okay. A big day for McDonald's, it sounds like.

7 CTC [MR. MURPHY]: Your Honor, I'm being asked if we could have
8 just a five-minute in-place recess.

9 MJ [CAPT ALLRED]: To get ready for redirect examination? All
10 right.

11 **REDIRECT EXAMINATION**

12 **Questions by the trial counsel:**

13 Q [MR. MURPHY]: I'm just going to hit a few highlights, Special
14 Agent [REDACTED], that were discussed by the defense on cross.

15 There was some discussion with Mr. Schneider about rights
16 and warnings, statements undertaken without the rights warnings and
17 the policies behind that. You testified before this commission
18 convened with members at a motion session on the admissibility
19 statement. Is that right?

20 A [MR. [REDACTED]]: That's correct.

21 Q [MR. MURPHY]: And you provided actual testimony before this
22 commission on your statements. Right?

23 A [MR. [REDACTED]]: That's correct.

1 Q [MR. MURPHY]: Are you aware that Judge Allred has determined
2 that every statement you have taken and have introduced,
3 understanding there is no rights advisement, is fully admissible in
4 these proceedings?

5 A [MR. [REDACTED]]: I wasn't aware of that.

6 WIT [MR. [REDACTED]]: But thank you, Your Honor.

7 Q [MR. MURPHY]: All right. There's some questions about the
8 conditions under which Mr. Hamdan was living when you were
9 interviewing him. And--reading from an SOP that's not part of the
10 FBI interview. Isn't that right? Do you remember that part of the
11 testimony?

12 A [MR. [REDACTED]]: Right. I was not familiar with that SOP.

13 Q [MR. MURPHY]: Mr. Schneider asked you about interview or
14 interrogation techniques that relied on disorientation, dependence on
15 the interviewing interrogator, and isolation. Did you coordinate or
16 conduct your interviews with Mr. Hamdan by using anything that could
17 remotely be called disorientation, dependence, or isolation?

18 A [MR. [REDACTED]]: No.

19 Q [MR. MURPHY]: You interviewed him, what, about six months
20 after--or, rather, six weeks, rather, after he arrived at Guantanamo
21 Bay. Is that your understanding?

22 A [MR. [REDACTED]]: I don't know when he arrived in GTMO.

23

1 Q [MR. MURPHY]: Okay. Were you aware, generally, that he
2 hadn't been here that long? Do you have any recollection at all?

3 A [MR. [REDACTED]]: No, I don't. I don't recall.

4 Q [MR. MURPHY]: All right. The concern that you addressed and
5 were made aware of was that Mr. Hamdan had raised concerns with you
6 that he was in a cell by himself. Is that right?

7 A [MR. [REDACTED]]: That's correct.

8 Q [MR. MURPHY]: No allegations, that you were aware of, of
9 abuse or mistreatment. Is that right?

10 A [MR. [REDACTED]]: No. No allegations of abuse or mistreatment.

11 Q [MR. MURPHY]: Mr. Hamdan was in a cell by himself, as far as
12 you know?

13 A [MR. [REDACTED]]: Yes. That's correct.

14 Q [MR. MURPHY]: All right, sir. Now, you mentioned that you
15 were in Afghanistan, yourself, at about December 2001. Is that
16 correct?

17 A [MR. [REDACTED]]: That's correct.

18 Q [MR. MURPHY]: And you are generally aware from others in the
19 investigation that Mr. Hamdan was captured about early in November
20 2001. Is that right?

21 A [MR. [REDACTED]]: I think that's right.

22

23

1 Q [MR. MURPHY]: Had he been fully forthcoming at that time and
2 told his interviewers, including U.S. soldiers who had him and were
3 videotaping his interviews, everything he knew about Usama bin Laden,
4 al Qaeda, missiles or missile transportation, and protection of al
5 Qaeda leadership, would that have been valuable to you back in
6 December of 2001?

7 A [MR. ██████████]: Yes and no.

8 Q [MR. MURPHY]: Why----

9 A [MR. ██████████]: Yes----

10 Q [MR. MURPHY]: I'm sorry. Go ahead.

11 A [MR. ██████████]: Yes, it would have been valuable if it would
12 have been passed to me. But, you know, December of 2001, we
13 were in--I was in the first group of FBI agents to go into
14 Afghanistan. At the time, information flow really wasn't
15 established. Bits and pieces would fall through the crack. The
16 FBI's role hasn't been clearly defined. We were trying to establish
17 that to give the commanders on the ground our experience with al
18 Qaeda.

19 Yes, it would have been very helpful to myself and my
20 colleagues, and I think in turn then we could have helped with some
21 analysis and further questioning of Mr. Hamdan, as well, to expand on
22 that during that time frame.

23

1 Q [MR. MURPHY]: And would it be helpful in relation to the
2 FBI's mission as an arm of our national defense as well as a criminal
3 investigation?

4 A [MR. ██████]: Absolutely.

5 Q [MR. MURPHY]: And how would it be valuable, wearing your FBI
6 hat, in support of national defense?

7 A [MR. ██████]: Every piece of information that we can gather
8 from any source, and particularly in this case from someone so close
9 to leadership of al Qaeda, so close to Usama bin Laden, it's just
10 another piece in the puzzle that we can use to possibly detect and
11 deter the next attack.

12 Q [MR. MURPHY]: Now, Mr. Schneider showed you a very extensive
13 list of U.S. government agencies and also U.S. government personnel
14 who were all dedicated at some point to looking at Salim Hamdan. Do
15 you remember that?

16 A [MR. ██████]: Yes.

17 Q [MR. MURPHY]: Do you think, as an investigator and FBI agent
18 in this case, that it's worth the United States putting every
19 available and necessary resource from a range of agency and personnel
20 on a task of looking at an individual charged with defending and
21 transporting Usama bin Laden?

22 A [MR. ██████]: Absolutely.

23

1 Q [MR. MURPHY]: Why?

2 A [MR. ████████]: I wish I could say that the FBI had all the
3 answers, but we don't. You know, the U.S. government, all of us are
4 charged with protecting this nation. And every group that I saw on
5 that list had some piece of the puzzle, had some part to play in
6 that, where--and this is just related to Mr. Hamdan. It could be any
7 one of these detainees.

8 If something they bring up, like, for instance, if they
9 brought up--like I saw INS on there--an immigration issue. And I'm
10 not that familiar with the forms that immigration uses. But if you
11 have an immigration official there and someone says, you know,
12 they're going to doctor this form or they're going to use that form,
13 that individual can immediately recognize the importance of that, and
14 then possibly take that up their chain and then make the necessary
15 determinations as to whether or not we need to change something or we
16 need to be on the lookout for that. Or, do we need to run our
17 databases based on the information that this guy has given us?

18 Now, I wish that all of the government databases talk to
19 one another, but they don't. And that's why every governmental
20 entity that was involved in this had some piece, and it was vital
21 that everyone be involved in that, that everyone get a chance to look
22 at that information, run their stuff, and see where it fit into their
23 piece, and then bring it back for an overall picture.

1 Q [MR. MURPHY]: So that very long list of agencies and
2 personnel, when you saw it, did you say that was a waste of effort
3 and an overuse of resources?

4 A [MR. ██████████]: No. No. In this war on terrorism, there is
5 really no waste of resources on this. I don't think we can throw
6 enough at this.

7 Q [MR. MURPHY]: You're an experienced FBI agent, and you have a
8 supervisory level. Is that right?

9 A [MR. ██████████]: That's correct.

10 Q [MR. MURPHY]: You've dealt extensively with people who
11 cooperate or try and cooperate or partially cooperate in your work as
12 an FBI agent. Isn't that right?

13 A [MR. ██████████]: That's correct.

14 Q [MR. MURPHY]: Do you also, in your experience, criminally
15 charge cooperators?

16 A [MR. ██████████]: Yes.

17 Q [MR. MURPHY]: And do you take them to court with the
18 prosecutors, even though they are cooperating?

19 A [MR. ██████████]: Yes.

20 CDC [MR. SCHNEIDER]: Objection. Scope.

21 CTC [MR. MURPHY]: Your Honor, there was extensive discussion
22 about Mr. Hamdan being a cooperator and the assistance he provided.
23 I want to put this in the framework.

1 MJ [CAPT ALLRED]: I will overrule that objection then.

2 Q [MR. MURPHY]: Are cooperators, people who cooperate fully or
3 partially, in your experience, sometimes charged with very serious
4 offenses?

5 A [MR. ██████]: Yes, they are.

6 Q [MR. MURPHY]: Just because you cooperate, does that
7 necessarily mean you're not guilty?

8 A [MR. ██████]: No. No, it does not.

9 Q [MR. MURPHY]: All right. Regarding your interviews, what's
10 your evaluation regarding the thought that much of what Salim Hamdan
11 had to say to you, that by the time you got to him down in Guantanamo
12 Bay, was information to a great extent that was already known by the
13 United States?

14 A [MR. ██████]: I don't know. I mean, I hadn't read or been
15 made--it hadn't been made available to me the information that Mr.
16 Hamdan had provided those for us. I knew some of it, but most of
17 that was because my time in Afghanistan, because I went back in March
18 of 2002 so I was aware. But I was in Bagram this time. So I was a
19 little bit aware.

20 The only thing I knew of Mr. Hamdan's name--because when we
21 were speaking over the radio we didn't mention names; just that a bin
22 Laden driver and guard had been captured and what Agent ██████ was
23 doing with him. But I don't know that some of that information had

1 been obtained from Mr. Hamdan.

2 But either way, you keep going back to these guys because
3 there will be--everybody's going to add something to it, another
4 brick, another piece. You know? And maybe they said, "Oh, well,
5 I've already covered that." And, "Well, let's just go through it
6 again," and maybe a new detail will emerge. And everything that you
7 get adds to that picture, adds to our understanding of this group and
8 that dynamic, and you build on that.

9 And as people learn this, our knowledge increases and our
10 way of talking to these guys increases. And, I mean, that's
11 just--you're just adding to it and adding to it. And that's what you
12 want to do; you want to get that picture, and you want to give
13 everybody as much knowledge as possible so that we can move forward.

14 Q [MR. MURPHY]: All right. You talked about how the accused
15 departed the company of Usama bin Laden at a few points for personal
16 reasons. Did he also report that he returned to Usama bin Laden?

17 A [MR. ██████]: After each time he left, he tried to return.
18 Or, he did return, and then finally he tried to return, at least.

19 Q [MR. MURPHY]: And there's nothing in your interview to
20 suggest that he was trying to escape permanently from the world of al
21 Qaeda?

22 A [MR. ██████]: No.

23

1 Q [MR. MURPHY]: You've investigated conspiracies as an FBI
2 agent in the past. Is that right?

3 A [MR. ██████]: That's correct.

4 Q [MR. MURPHY]: And has it been your experience that, in
5 conspiracies, not every co-conspirator knows all of the
6 co-conspirators in a conspiracy?

7 A [MR. ██████]: In the larger conspiracies that we've charged,
8 yeah, they don't necessarily know all of the others involved.

9 Q [MR. MURPHY]: Based on your experience, does al Qaeda
10 represent a large conspiracy?

11 A [MR. ██████]: The largest conspiracy.

12 Q [MR. MURPHY]: It's the largest conspiracy you've ever
13 investigated?

14 A [MR. ██████]: That's correct.

15 Q [MR. MURPHY]: It stretches worldwide?

16 A [MR. ██████]: Yes, it does.

17 Q [MR. MURPHY]: It depends on, its success, by certain members
18 doing what you might call simple tasks?

19 A [MR. ██████]: Absolutely.

20 Q [MR. MURPHY]: Like driving?

21 A [MR. ██████]: Yes.

22 Q [MR. MURPHY]: Like body guarding?

23 A [MR. ██████]: Yes.

1 Q [MR. MURPHY]: Like transporting weapons?

2 A [MR. ██████]: Yes.

3 Q [MR. MURPHY]: Can someone like Usama bin Laden succeed

4 without lots of people doing important work for al Qaeda, such as the

5 things you just mentioned?

6 A [MR. ██████]: Without people willing to do the logistics, you

7 know, some of the more menial tasks that are necessary to run an

8 organization of this size, al Qaeda as we know it couldn't exist.

9 Q [MR. MURPHY]: In your opinion, are people like Salim Hamdan

10 making bin Laden possible?

11 A [MR. ██████]: Yes.

12 Q [MR. MURPHY]: Why?

13 A [MR. ██████]: Without people like Mr. Hamdan, bin Laden would

14 enjoy no support, would not enjoy protection, and would probably have

15 not been able to elude capture up until this point.

16 CTC [MR. MURPHY]: Your Honor, I have no further questions.

17 MJ [CAPT ALLRED]: Thank you.

18 CDC [MR. SCHNEIDER]: Three topics. I know I proceed at my

19 peril today.

20 MJ [CAPT ALLRED]: No peril today.

21 CDC [MR. SCHNEIDER]: And in the sense of unnecessarily delaying

22 anyone in this courtroom, it might not be a great idea for me, but

23 let me ask you two quick questions.

RECROSS-EXAMINATION

Questions by the defense counsel:

Q [MR. SCHNEIDER]: You would not have the members of this panel believe, would you, that, had Mr. Hamdan never been born, those three attacks would not have occurred?

A [MR. ██████]: No. No, I wouldn't say that. No. One individual, no.

Q [MR. SCHNEIDER]: The second topic. It wasn't just a question of Mr. Hamdan being in a cell by himself when that condition of his confinement changed. Right? I mean, he was always in a cell by himself. Right?

A [MR. ██████]: That's correct.

Q [MR. SCHNEIDER]: Or two at that?

A [MR. ██████]: Yes. It was solitary confinement.

Q [MR. SCHNEIDER]: The third topic.

A [MR. ██████]: I believe it.

Q [MR. SCHNEIDER]: I think you were asked if there was a very comprehensive list. I showed you a book, agencies and personnel. Isn't it true that there was one agency that is not on that list that you know and I know was involved?

A [MR. ██████████]: Yes.

Q [MR. SCHNEIDER]: Don't give me a name. Yes?

A [MR. ██████]: Yes.

1 Q [MR. SCHNEIDER]: One agency that was not very good about what
2 you would call----

3 CTC [MR. MURPHY]: Asked and answered.

4 Q [MR. SCHNEIDER]: Passing information. Correct?

5 MJ [CAPT ALLRED]: Overruled.

6 A [MR. ████████]: Can I hear the question again?

7 Q [MR. SCHNEIDER]: Isn't it true that there was one agency--and
8 I don't want to know the name and it's not on my list--that had
9 information but wasn't very good about passing it to the FBI? True
10 or false?

11 A [MR. ████████]: My opinion, that would be true.

12 Q [MR. SCHNEIDER]: Last question. Counsel reminded me, I said
13 I would come back to the rights advisement, and I never did.

14 Isn't it true that you told me in December, you told me
15 last week, and if asked you would tell me today, that if Mr. Hamdan
16 has landed in a plane in Florida or somewhere else in the United
17 States instead of at Guantanamo Bay Naval Station, you would not have
18 proceeded to ask him a single question without advising him of his
19 rights. Correct? Is that what you said?

20 A [MR. ████████]: No. I could have asked the--you know, his
21 name, his biographical information. However, beyond that--and I
22 think that what you had asked me for, if he was 90 miles west of here
23 in Florida in a jail cell, would I have read him his rights before

1 proceeding. And it's just as true today as it was then, I would have
2 read him his rights; if we would have been in the same circumstances
3 and he was sitting in a cell in Miami, I would have indeed read him
4 his rights.

5 CDC [MR. SCHNEIDER]: No further questions.

6 MJ [CAPT ALLRED]: Can we excuse Agent [REDACTED], then, to leave
7 the island?

8 CTC [MR. MURPHY]: We can, Your Honor. The government has no
9 further need to retain him. I don't believe the defense has
10 requested him to stay.

11 CDC [MR. SCHNEIDER]: The defense has no objection to his
12 departure, subject to recall, only if and when Witness M testifies.
13 The same thing with [REDACTED].

14 MJ [CAPT ALLRED]: Okay. You talk to counsel off-line.
15 Apparently, you are excused to go and may return to your duties in
16 the United States.

17 Well, I don't know who Witness M is, and I don't know that
18 you might not be recalled. Thank you, Agent [REDACTED].

19 **[The witness was duly warned, permanently excused, and withdrew from**
20 **the courtroom.]**

21 MJ [CAPT ALLRED]: Okay, members of the court, that appears to
22 be the end of the government's witness list for this week; and so
23 when we adjourn today, we will adjourn for the weekend.

1 Please remember not to discuss the case amongst yourselves
2 or with anyone else during any recess of this court, including during
3 the weekend.

4 I remind you that there are numerous members of the media
5 on the island, and to be careful to not discuss the case with them,
6 either.

7 We will see you Monday morning at 0830.

8 CTC [MR. McMILLAN]: Your Honor, if you would, just a reminder
9 on the news. I happened to be in the galley, and the case was
10 playing on the news.

11 MJ [CAPT ALLRED]: Well, if you're eating in the galley and the
12 TV is on, you should just not allow yourself to be influenced by
13 anything you might hear in the galley.

14 Thank you. We will excuse the members, and see you on
15 Monday.

16 **[All persons did as directed, and the members withdrew from the**
17 **courtroom.]**

18 **[The military commission recessed at 1249, 25 July 2008.]**

19 **[END OF PAGE]**